

1           IN THE UNITED STATES DISTRICT COURT  
2           FOR THE NORTHERN DISTRICT OF OHIO  
3           EASTERN DIVISION

4                   -   -   -

5  
6           IN RE:    NATIONAL                   :   HON. DAN A.  
7           PRESCRIPTION OPIATE           :   POLSTER  
8           LITIGATION                   :     
9                   :     
10          APPLIES TO ALL CASES           :   NO.  
11                   :   1:17-MD-2804  
12                   :   

13                   - HIGHLY CONFIDENTIAL -

14           SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

15                   -   -   -

16                   January 30, 2019

17                   -   -   -

18                   Videotaped deposition of  
19           JOHN ADAMS, taken pursuant to notice,  
20           was held at the offices of Carella Byrne,  
21           P.C., 5 Becker Farm Road, Roseland, New  
22           Jersey, beginning at 9:22 a.m., on the  
23           above date, before Michelle L. Gray, a  
24           Registered Professional Reporter,  
            Certified Shorthand Reporter, Certified  
            Realtime Reporter, and Notary Public.

                 -   -   -

                 GOLKOW LITIGATION SERVICES  
            877.370.3377 ph | 917.591.5672 fax  
                 deps@golkow.com

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES: 2 3 ROBBINS GELLER RUDMAN &amp; DOWD, LLP 4 BY: AELISH M. BAIG, ESQ. 5 Post-Montgomery Center 6 One Montgomery Street, 7 Suite 1800 8 San Francisco, California 94104 9 (415) 288-4545 10 aelishb@rgrdlaw.com 11 - and - 12 ROBBINS GELLER RUDMAN &amp; DOWD, LLP 13 BY: HENRY ROSEN, ESQ. 14 655 West Broadway 15 Suite 1900 16 San Diego, California 92101 17 (619) 231-1058 18 tegler@rgrdlaw.com 19 hrosen@rgrdlaw.com 20 21 - and - 22 23 BRANSTETTER, STRANCH &amp; JENNINGS, PLLC 24 BY: BENJAMIN A. GASTEL, ESQ. 223 Rosa L. Parks Avenue Suite 200 Nashville, Tennessee 37203 (615) 254-8801 Beng@bsjfirm.com Representing the Tennessee Plaintiffs</p>	<p style="text-align: right;">Page 4</p> <p>1 TELEPHONIC APPEARANCES: 2 3 COVINGTON &amp; BURLING, LLP 4 BY: PAUL F. DOWNS, ESQ. 5 620 Eighth Avenue 6 New York, NY 10018 7 (212) 841-1000 8 Pdowns@cov.com 9 Representing the Defendant, McKesson 10 Corporation 11 12 ARNOLD &amp; PORTER KAYE SCHOLER, LLP 13 BY: SEAN A. McCORMICK, ESQ. 14 777 South Figueroa Street, 44th Floor 15 Los Angeles, California 90017 16 (213) 243-4000 17 Sean.mccormick@arnoldporter.com 18 Representing the Defendants, Endo 19 Health Solutions; Endo 20 Pharmaceuticals, Inc.; Par 21 Pharmaceutical Companies, Inc. f/k/a 22 Par Pharmaceutical Holdings, Inc. 23 24 JACKSON KELLY, PLLC BY: JAMES D. JOHNSON, ESQ 221 NW Fifth Street Evansville, IN 47708 (812) 422-9444 Jdjohnson@jacksonkelly.com Representing the Defendant, AmerisourceBergen</p>
<p style="text-align: right;">Page 3</p> <p>1 APPEARANCES: (Cont'd.) 2 3 ROPES &amp; GRAY, LLP 4 BY: ROCKY C. TSAI, ESQ. 5 Three Embarcadero Center 6 San Francisco, California 94111 7 (415) 315-6300 8 Rocky.tsai@ropesgray.com 9 - and - 10 ROPES &amp; GRAY, LLP 11 BY: CASSANDRA A. LaRUSSA, ESQ. 12 Prudential Tower 13 800 Boylston Street 14 Boston, Massachusetts 02199 15 (617) 951-7000 16 Cassandra.larussa@ropesgray.com 17 Representing the Defendant, 18 Mallinckrodt and the Witness 19 20 JONES DAY 21 BY: RICHARD M. BRODSKY, ESQ. 22 150 West Jefferson, Suite 2100 23 Detroit, Michigan 48226 24 (313) 733-3939 rbrodsky@jonesday.com Representing the Defendant, Walmart WILLIAMS &amp; CONNOLLY, LLP BY: JOEL S. JOHNSON, ESQ. 725 12th Street, NW Washington, D.C. 20005 (202) 434-5148 jjohnson@wc.com Representing the Defendant, Cardinal Health</p>	<p style="text-align: right;">Page 5</p> <p>1 APPEARANCES: (Cont'd.) 2 3 ALSO PRESENT: 4 5 VIDEO TECHNICIAN 6 Dan Lawlor 7 8 LITIGATION TECHNICIAN 9 Zach Hone 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>

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E X H I B I T S  
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NO.	DESCRIPTION	PAGE
Mallinckrodt Adams-1	Curriculum Vitae	33
Mallinckrodt Adams-2	E-mail Thread	34
	8/23/10	
	Subject, John Adams	
	Address Change	
	MNK-T1_0007918669-12	

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NO.	DESCRIPTION	PAGE
Mallinckrodt Adams-3	Packet of	55
	Performance Goals	
	Covidien for	
	John Adams	
	(No Bates)	
Mallinckrodt Adams-4	E-mail, 7/28/05	90
	Subject, Updated	
	Generics Marketing	
	Roles & Responsibilities	
	MNK-T1_0005426063	
	MNK-T1_0000565464	
Mallinckrodt Adams-5	E-mail Thread	105
	5/17/05	
	Subject, PCL Library	
	Pharmaceutical	
	Industry Newsletter	
	MNK-T1_0007917913-24	
Mallinckrodt Adams-6	E-mail Thread	113
	1/23/07	
	Subject, Product	
	Manual Updates	
	MNK-T1_0004839173-74	

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NO.	DESCRIPTION	PAGE
Mallinckrodt Adams-7	E-mail Thread	117
	10/17/08	
	Subject, Sales Reports	
	MNK-T1_0006339059-66	
Mallinckrodt Adams-8	E-mail, 11/20/09	134
	Subject, Business	
	Review	
	MNK-T1_0006305472-79	
Mallinckrodt Adams-9	E-mail, 10/2/05	148
	Subject, Gained	
	Accounts & Rebate	
	Reports	
	MNK-T1_0007917528-76	
Mallinckrodt Adams-10	E-mail Thread	160
	2/8/07	
	Subject, Monthly	
	Report	
	MNK-T1_0006685111-50	
Mallinckrodt Adams-11	E-mail Thread	179
	9/6/07	
	Subject, Monthly Report	
	MNK-T1_0004923043-50	

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NO.	DESCRIPTION	PAGE
Mallinckrodt Adams-12	E-mail Thread	193
	8/5/09	
	Subject, Monthly Report	
	MNK-T1_0000418847-50	
Mallinckrodt Adams-13	E-mail Thread	217
	6/6/08	
	Subject, Suspicious	
	Order Monitoring	
	Training Notes	
	MNK-T1_0000304559-72	
Mallinckrodt Adams-14	E-mail Thread	237
	9/17/09	
	Subject, Suspicious	
	Order Monitoring	
	Presentation	
	MNK-T1_0000277124-41	
Mallinckrodt Adams-15	E-mail Thread	244
	6/2/08	
	Subject, Suspicious	
	Order Monitoring	
	Customer Checklist	
	Facility Photographs	
	MNK-T1_0000391421-22	
Mallinckrodt Adams-16	E-mail, 7/15/08	246
	Subject, July 15th	
	IntegriChain Meeting	
	MNK-T1_0002906782-83	

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5	NO.	DESCRIPTION	PAGE
6	Mallinckrodt		
7	Adams-17	E-mail Thread	257
8		9/27/07	
9		Subject, Masters	
10		MNK-T1_0000383892	
11	Mallinckrodt		
12	Adams-18	E-mail Thread	260
13		6/3/08	
14		Subject, Oxy Monthly	
15		Usage	
16		MNK-T1_0000562701-04	
17	Mallinckrodt		
18	Adams-19	E-mail Thread	269
19		5/1/09	
20		Subject, Masters	
21		MNK-T1_0000565729-30	
22	Mallinckrodt		
23	Adams-20	E-mail Thread	277
24		7/9/09	
		Subject, Sunrise	
		Follow-up	
		MNK-T1_0000459331-32	

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1			
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5	NO.	DESCRIPTION	PAGE
6	Mallinckrodt		
7	Adams-26	E-mail, 3/4/11	334
8		Subject, Morelli CA	
9		NSM Presentation	
10		Short Version	
11		MNK-T1_0007094264-94	
12	Mallinckrodt		
13	Adams-27	E-mail, 6/18/10	368
14		Subject, Oxycodone	
15		Sales in Florida	
16		Summary	
17		MNK-T1_0000561028-29	
18			
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5	NO.	DESCRIPTION	PAGE
6	Mallinckrodt		
7	Adams-21	E-mail, 7/10/09	287
8		Subject, Sunrise	
9		Reports	
10		MNK-T1_0000448872-73	
11	Mallinckrodt		
12	Adams-22	E-mail Thread	290
13		7/29/09	
14		Subject, Rx Drug	
15		Abuse Epidemic	
16		MNK-T1_0000290150-51	
17	Mallinckrodt		
18	Adams-23	E-mail Thread	300
19		7/27/09	
20		Subject, Pete	
21		Kleissle, Oxy	
22		Investigation	
23		MNK-T1_0000290175-77	
24	Mallinckrodt		
	Adams-24	E-mail Thread	305
		8/4/09	
		Subject, Florida	
		Medication Coming	
		Into Tennessee	
		MNK-T1_0000562325-29	
	Mallinckrodt		
	Adams-25	E-mail, 8/26/09	319
		Subject, Sunrise	
		Audit Report Draft	
		MNK-T1_0000388379-86	

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1			
2			
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4			
5	Direction to Witness Not to Answer		
6	PAGE LINE		
7	None.		
8	Request for Production of Documents		
9	PAGE LINE		
10	None.		
11	Stipulations		
12	PAGE LINE		
13	None.		
14	Questions Marked		
15	PAGE LINE		
16	None.		
17			
18			
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1                   - - -

2                   THE VIDEOGRAPHER: We are

3                   now on the record.

4                   My name is Dan Lawlor, I'm a

5                   videographer with Golkow

6                   Litigation Services.

7                   Today's date is January 30,

8                   2019. And the time is 9:22 a.m.

9                   This video deposition is

10                  being held in Roseland, New

11                  Jersey, in the matter of National

12                  Prescription Opiate Litigation,

13                  MDL Number 2804.

14                  The deponent is John Adams.

15                  Counsel will be noted on the

16                  stenographic record.

17                  The court reporter is

18                  Michelle Gray and will now swear

19                  in the witness.

20                  - - -

21                  ... JOHN ADAMS, having

22                  been first duly sworn, was

23                  examined and testified as follows:

24                  - - -

Page 15

1                   EXAMINATION

2                   - - -

3 BY MS. BAIG:

4                   Q. Hi. Good morning.

5                   A. Good morning.

6                   Q. We met briefly off the

7                   record, but could you please state your

8                   full name and address for the record?

9                   A. John Adams. [REDACTED]

10                  [REDACTED]

11                  Q. And have you ever had your

12                  deposition taken before?

13                  A. Yes.

14                  Q. How many times?

15                  A. Four or five.

16                  Q. So you're generally familiar

17                  with the -- the protocols for -- for

18                  deposition?

19                  A. Correct.

20                  Q. Okay. Have you had your

21                  deposition taken in connection with any

22                  sort of opioid products or litigation?

23                  A. I have not.

24                  Q. And what did you do to

Page 16

1                   prepare for today's deposition?

2                   A. I met with counsel.

3                   Q. How many times?

4                   A. Twice.

5                   Q. And for how long?

6                   A. Six hours one day, and maybe

7                   seven hours another.

8                   Q. Did you read any deposition

9                   transcripts?

10                  A. No.

11                  Q. Did you talk to anybody from

12                  Mallinckrodt?

13                  A. No, I did not.

14                  Q. And are you being paid for

15                  your -- your time here today?

16                  A. Yes, I am.

17                  Q. At what hourly rate?

18                  A. \$225.

19                  Q. And -- and you were paid at

20                  that rate for your prep time as well?

21                  A. During the -- just for the

22                  sessions that we held, yes, correct.

23                  Q. Okay. And did you review

24                  documents in connection with your

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1                   preparation for this deposition?

2                   A. I did.

3                   Q. And did any of those

4                   documents refresh your recollection?

5                   A. Yes.

6                   Q. And what documents did you

7                   look at in preparation for this

8                   deposition?

9                   MR. TSAI: Instruct the

10                  witness not to reveal any specific

11                  documents that were identified,

12                  compiled, and discussed with

13                  counsel.

14                  You can talk in general

15                  terms about categories.

16                  THE WITNESS: Sure.

17                  Primarily e-mails, some that

18                  I was -- that were sent to me

19                  directly, but many which I was

20                  copied on.

21 BY MS. BAIG:

22                  Q. Anything else other than

23                  e-mails that you recall?

24                  A. Attachments affiliated with

<p style="text-align: right;">Page 18</p> <p>1 those e-mails. And I don't recall any 2 other items, no.</p> <p>3 Q. Are you familiar with the 4 complaints on file in this action?</p> <p>5 A. I know very high level.</p> <p>6 Q. What's your understanding of 7 what this case is about?</p> <p>8 A. There is action taking place 9 from city, state, and county level 10 relative to potential abuse of opioids 11 and the implications of that.</p> <p>12 Q. At what company did you 13 first work on any opioid products?</p> <p>14 A. Upsher-Smith Laboratories.</p> <p>15 Q. And what opioids did you 16 work on there?</p> <p>17 A. RMS, the rectal morphine 18 suppository, and OMS, oral morphine 19 sulfate concentrate. It was a liquid.</p> <p>20 Q. And had that -- how long did 21 you work there?</p> <p>22 A. I worked there for 15 years. 23 The products themselves were not -- were 24 not marketed throughout that entire time</p>	<p style="text-align: right;">Page 20</p> <p>1 at Mallinckrodt?</p> <p>2 A. Senior product manager I 3 started out as. And then I believe I 4 transitioned into director of sales, and 5 by the time I left Mallinckrodt I was 6 vice president of sales.</p> <p>7 Q. And about when did you 8 transition from senior product manager to 9 director of sales?</p> <p>10 A. I don't recall. I could 11 estimate around 2006 into director of 12 sales.</p> <p>13 Q. And about when did you 14 transition from director of sales to VP 15 of sales?</p> <p>16 A. I believe it was somewhere 17 in 2008.</p> <p>18 Q. What was your title at 19 Upsher-Smith?</p> <p>20 A. I was there for 15 years. 21 So I started out as a territory sales 22 representative, and by the time I left, I 23 was a supervisor of planning and 24 analysis.</p>
<p style="text-align: right;">Page 19</p> <p>1 frame. I believe they were discontinued 2 as part of the -- during my tenure at 3 some point. I don't recall.</p> <p>4 Q. Did you have any training in 5 connection with your work on the RMS and 6 the other opioid product you mentioned in 7 terms of -- in terms of the Controlled 8 Substances Act?</p> <p>9 A. More from a sales 10 perspective.</p> <p>11 Q. What do you mean by that?</p> <p>12 A. Really talking about the -- 13 the features and benefits as it would 14 relate to selling to customers, and by 15 customers, that would be defined as 16 wholesalers, chains, and to pharmacists.</p> <p>17 Q. Did you have any training 18 with respect to the Controlled Substances 19 Act before you got to Mallinckrodt?</p> <p>20 A. I don't recall.</p> <p>21 Q. What years did you work at 22 Mallinckrodt?</p> <p>23 A. 2004 to spring of 2010.</p> <p>24 Q. What positions did you hold</p>	<p style="text-align: right;">Page 21</p> <p>1 Q. And can you describe your 2 responsibilities as senior product 3 manager at Mallinckrodt?</p> <p>4 A. Yes. I had a product 5 manager, perhaps two, who would report to 6 me. And so these product managers would 7 develop forecasts and would work on 8 pricing relative to budgeting as well as 9 at the customer level. So that group 10 would -- part of that group would report 11 to me.</p> <p>12 Q. And who were those two 13 reports?</p> <p>14 A. One was Rebecca Coyner, and 15 the other individual's name was John. 16 And I don't recall his last name.</p> <p>17 Q. And how did your 18 responsibilities change when you became 19 director of sales?</p> <p>20 A. So at that point there were 21 six national account managers who then 22 reported directly to me. So I didn't 23 have any account responsibility, per se, 24 but I was responsible for the -- the fact</p>



<p style="text-align: right;">Page 22</p> <p>1 that they reported to me, the national 2 account directors, or managers rather. 3 Q. And who were those national 4 account managers? 5 A. Dave Irwin, Toby Bane, Tim 6 Berry, Bonnie New, Victor Borelli, and I 7 hope I'm not insulting someone else, but 8 I don't recall. 9 Q. And how did your 10 responsibilities change when you became 11 VP of sales? 12 A. It was a natural progression 13 of my career. It was an acknowledgement 14 of contributions I made. I still had 15 that same team reporting to me. And as 16 far as expansion of that, it really -- it 17 wasn't a significant jump, if you will. 18 Q. In terms of 19 responsibilities? 20 A. Yeah, I had -- I had very 21 much the same. 22 Q. When you were senior product 23 manager, who did you report to? 24 A. Rick Coulon.</p>	<p style="text-align: right;">Page 24</p> <p>1 A. I believe when I first 2 started it was part of Tyco Healthcare. 3 At some point it transitioned to Covidien 4 Health. I don't know the specifics on 5 that. Really the change in name was -- 6 it didn't -- it didn't have any impact, 7 bearing. 8 Q. And was Tyco Healthcare part 9 of Mallinckrodt PLC? 10 MR. TSAI: Object to form. 11 Go ahead. 12 THE WITNESS: I don't know. 13 BY MS. BAIG: 14 Q. Who was the chief officer of 15 Tyco Healthcare? 16 A. I don't recall. 17 Q. So Mike Gunning was VP of 18 sales and marketing at Tyco or at 19 Mallinckrodt Generics? 20 A. Mallinckrodt Generics. 21 Q. And do you know who Mike 22 Gunning reported to? 23 A. Vince Kaiman. 24 Q. What was his position?</p>
<p style="text-align: right;">Page 23</p> <p>1 Q. And what was his position? 2 A. Director of marketing. 3 Q. At Mallinckrodt? 4 A. Correct. 5 Q. And who did Rick Coulon 6 report to? 7 A. Michael Gunning. 8 Q. And what was his position? 9 A. I believe it was vice 10 president of sales and marketing at that 11 time. I don't know specifically. 12 Q. At Mallinckrodt? 13 A. Correct. 14 Q. And when you were senior 15 product manager, which Mallinckrodt 16 company did you work for? 17 A. Mallinckrodt Generics. And 18 to differentiate there's a health systems 19 division and a retail. I was on the 20 retail side. 21 Q. And you worked for 22 Mallinckrodt Generics. Was it your 23 understanding that Mallinckrodt Generics 24 was part of Covidien?</p>	<p style="text-align: right;">Page 25</p> <p>1 A. I believe it was general 2 manager. 3 Q. At what company? 4 A. At Mallinckrodt. 5 Q. Mallinckrodt PLC? 6 MR. TSAI: Object to form. 7 Go ahead. 8 THE WITNESS: I don't 9 recall. 10 BY MS. BAIG: 11 Q. And when you were director 12 of sales, who did you report to? 13 A. Mike Gunning. 14 Q. So that stayed the same? 15 A. No. Initially I reported to 16 Rick Coulon. 17 Q. Oh, got it. Okay. And Rick 18 Coulon reported to Mike Gunning? 19 A. Correct. 20 Q. Okay. So as director of 21 sales then you began reporting directly 22 to Mike Gunning? 23 A. And Rick Coulon had resigned 24 by that point.</p>

<p style="text-align: right;">Page 26</p> <p>1 Q. And Mike Gunning at that 2 point, did he still report to Vince 3 Kaiman?</p> <p>4 A. Yes. I believe that was his 5 reporting structure.</p> <p>6 Q. And you -- and you don't 7 know who Vince Kaiman reported to?</p> <p>8 A. I don't know who was there 9 at the time. I'm not sure. Whoever his 10 boss was, I know initially was named 11 Mike. I don't remember his last name. I 12 didn't know him. But that again changed 13 over time.</p> <p>14 Q. And do you remember who it 15 changed to?</p> <p>16 A. Tim Wright.</p> <p>17 Q. And what was Tim Wright's 18 position?</p> <p>19 A. Correction. I don't believe 20 it was Tim Wright directly. There was 21 somebody in between that, that I don't 22 know who it was.</p> <p>23 Q. But at some point it became 24 Tim Wright?</p>	<p style="text-align: right;">Page 28</p> <p>1 any interaction that I recall with anyone 2 outside of the St. Louis business.</p> <p>3 Q. And by the St. Louis 4 business, you mean Mallinckrodt Generics?</p> <p>5 A. That is correct.</p> <p>6 I'm sorry. I should -- I 7 interacted but not in a formal sense with 8 the Mallinckrodt API team as well. But 9 again, not in a reporting structure kind 10 of a way, but I did interact with them.</p> <p>11 Q. What's the Mallinckrodt API 12 team?</p> <p>13 A. It's the raw material team, 14 deal with -- manufacture all the raw 15 materials.</p> <p>16 Q. And which company did they 17 work for?</p> <p>18 A. I don't know where they 19 rolled up. I'm not sure.</p> <p>20 Q. But they did not work with 21 Mallinckrodt Generics; is that right?</p> <p>22 A. I don't know which group 23 they rolled into.</p> <p>24 Q. Did you ever have any</p>
<p style="text-align: right;">Page 27</p> <p>1 A. I don't know that. I think 2 there was one other person in there who 3 was -- I just don't remember.</p> <p>4 Q. Okay. What was Tim Wright's 5 position?</p> <p>6 A. I don't know his title.</p> <p>7 Q. Do you know what company he 8 worked for?</p> <p>9 A. I do not.</p> <p>10 Q. And when you were VP of 11 sales, who did you report to?</p> <p>12 A. Mike Gunning.</p> <p>13 Q. When you worked at 14 Mallinckrodt, do you recall ever 15 interacting with anybody from corporate?</p> <p>16 A. I guess maybe I could 17 clarify that. What do you define as 18 corporate? I don't know what that would 19 stand for.</p> <p>20 Q. Did you talk internally 21 about a corporate office or no?</p> <p>22 A. No. I mean -- Tyco 23 Healthcare, they were based in 24 Massachusetts. I don't -- I never had</p>	<p style="text-align: right;">Page 29</p> <p>1 interaction with anyone from Mallinckrodt 2 Pharmaceuticals Inc., the Irish company?</p> <p>3 MR. TSAI: Object to form.</p> <p>4 THE WITNESS: I don't 5 recall.</p> <p>6 BY MS. BAIG:</p> <p>7 Q. You don't recall one way or 8 the other?</p> <p>9 A. I don't recall one way or 10 the other. It was a -- if I recall, a 11 Bermuda corporation. I don't remember. 12 I don't recall anything regarding -- did 13 you say an Irish entity? I don't recall 14 that being a place. That may have been 15 after my tenure. I just -- again, I left 16 in 2010, early.</p> <p>17 Q. Okay. And why did you leave 18 the company?</p> <p>19 A. I had an opportunity at a 20 different company.</p> <p>21 Q. Which company did you go to?</p> <p>22 A. Dr. Reddy's Laboratories.</p> <p>23 Q. And you're still there now?</p> <p>24 A. I am not.</p>



<p style="text-align: right;">Page 30</p> <p>1 Q. Did you go to another 2 company after Dr. Reddy's? 3 A. Yes. 4 Q. Which company? 5 A. Ajanta Pharma. 6 Q. Are you there now? 7 A. I am. 8 Q. What is your position at 9 Ajanta Pharma? 10 A. Senior vice president, 11 commercial operations. 12 Q. And do you work on any 13 opioid products at Ajanta Pharma? 14 A. I do not. 15 Q. And when you were at 16 Dr. Reddy's, what was your position 17 there? 18 A. Vice president of sales and 19 marketing. 20 Q. And you worked on opioid 21 products at Dr. Reddy's, did you not? 22 A. I did not. 23 Q. Dr. Reddy's didn't have any 24 opioid products?</p>	<p style="text-align: right;">Page 32</p> <p>1 you entered into a severance agreement 2 with Mallinckrodt. 3 A. No, I don't recall any. 4 Q. Okay. 5 A. There was no payout, if 6 that's your question. 7 Q. Yeah. 8 A. Okay. 9 Q. Okay. Did you ever use any 10 personal e-mail addresses when you worked 11 at Mallinckrodt? 12 A. Not that I recall. 13 Q. What about text messages? 14 A. Yes. 15 Q. And did you look at any text 16 message documents when you were preparing 17 for your deposition today? 18 A. No. 19 Q. Do you know whether those 20 text message documents were produced in 21 this action? 22 A. I don't recall. I don't -- 23 I don't know. 24 Q. And did you -- did you use</p>
<p style="text-align: right;">Page 31</p> <p>1 A. No. I was in the generic 2 division. I don't recall any in the 3 organization at all. 4 Q. When you left the company, 5 did you enter into a severance agreement? 6 A. No. I believe I had a 7 signing agreement. 8 Q. When you left? 9 A. No. When I joined -- 10 Q. When you joined. 11 A. -- the organization, I 12 believe I signed. 13 Q. So you didn't receive any 14 sort of payout when you left 15 Mallinckrodt? 16 A. Oh, I'm sorry. 17 Q. Any sort of severance pay? 18 A. Let me -- let me just 19 clarify. I thought you were asking me 20 initially about Dr. Reddy's. Are you 21 asking separate questions now? Can you 22 clarify? 23 Q. Yeah, sure. No, I'm just 24 asking if when you left Mallinckrodt, if</p>	<p style="text-align: right;">Page 33</p> <p>1 the text messaging to communicate with 2 colleagues at Mallinckrodt? 3 A. Yes. 4 Q. On a pretty regular basis? 5 A. Yes. 6 MS. BAIG: Let's have this 7 document marked as Exhibit 1. 8 (Document marked for 9 identification as Exhibit 10 Mallinckrodt-Adams-1.) 11 THE WITNESS: Is that for 12 me? 13 BY MS. BAIG: 14 Q. This document is 15 Bates-stamped Mallinckrodt_0007918702 16 through 8704. It appears to be a copy of 17 your resumé. Have you seen this document 18 before? 19 A. Yes. 20 Q. And was this your resumé 21 that you submitted to Mallinckrodt when 22 you joined the firm? 23 A. I believe so. 24 Q. And was this a true and</p>

<p style="text-align: right;">Page 34</p> <p>1 accurate copy of your -- or summary of 2 your work credentials at that time? 3 A. Let me review. Yes, it is. 4 Q. Is there any reference to 5 the opioid products at Upsher on this 6 resumé? 7 A. No, there is not. 8 Just to add to that, it was 9 a non-promoted product. So it wasn't 10 something that -- it was on the 11 portfolio. But it was not part of the 12 promotion. We had maybe a half a dozen 13 products that we'd focus on doing 14 marketing programs on. And this was not 15 one of them. 16 Q. And that was at Upsher, 17 correct? 18 A. Correct. 19 MS. BAIG: Let's have this 20 document marked as Exhibit 2. 21 (Document marked for 22 identification as Exhibit 23 Mallinckrodt-Adams-2.) 24 BY MS. BAIG:</p>	<p style="text-align: right;">Page 36</p> <p>1 Q. Okay. And you see that the 2 second page after the e-mail states it's 3 an ECF Global Peoplesoft Employee Change 4 Form. Do you see that? 5 A. I see the title. Let me -- 6 let me just try and get some recollection 7 here. 8 Q. Sure. 9 A. Okay. 10 Q. If you could look through, 11 four pages in to the document that ends 12 in a Bates stamp number 687. It appears 13 to be a performance -- it states it's a 14 performance management document for 15 October of 2004. 16 A. I'm sorry. Just to make 17 sure. Okay, I see this. 18 Q. You should be able to see it 19 on your screen too. 20 A. Yeah, okay, perfect. Thank 21 you. 22 Q. Great. Is this a 23 performance evaluation from your time at 24 Mallinckrodt?</p>
<p style="text-align: right;">Page 35</p> <p>1 Q. When you were at 2 Mallinckrodt, did you receive regular 3 performance evaluations? 4 A. Yes, I did. 5 Q. And -- well, for the record, 6 this document is Bates-stamped 7 MNK-T1_0007918669 through 8712. And if 8 you turn to the second page. 9 A. I'm sorry, can you clarify 10 who Louise Yaeger is? I don't recall. 11 Q. I can't answer that, because 12 I don't know the answer to that. These, 13 I can represent to you, the vast majority 14 of these documents that we'll be looking 15 at today came from your custodial files 16 from your counsel. And so that might 17 have been one of the questions I might 18 have asked you. 19 But you don't -- so you 20 don't know who Louise Yaeger is? 21 A. I'm not familiar with the 22 name. I've heard it before, but I 23 couldn't tell you the context at all. I 24 have no clue.</p>	<p style="text-align: right;">Page 37</p> <p>1 A. Yes, it appears so. 2 Q. Okay. If you -- if you turn 3 two pages in, you'll see on the page that 4 ends in Bates stamped 690, you'll see 5 where it's talking about expected results 6 and actual results. Do you see that? 7 A. I see three different 8 headings with that, yes. 9 Q. Yeah. And so if you look at 10 the second actual result. Do you see it 11 says, "John communicated a creative brief 12 outlining the desired message of the new 13 hydrocodone advertisement." 14 Do you see that? 15 A. I'm just -- I'll read 16 through the whole thing here. 17 Yes. 18 Q. And so was it -- was it your 19 job to help create this new hydrocodone 20 advertisement? 21 A. So my -- my role was to 22 provide insights into that. We had a 23 different group who would develop 24 advertising. But I certainly would work</p>

<p style="text-align: right;">Page 38</p> <p>1 with that group, and I see that this does 2 talk about kind of looking at 3 communicating advertisement. 4 I just want to clarify that 5 advertisements that we did were done to 6 the chain headquarters, wholesaler 7 headquarters, distributor headquarters, 8 and that was our audience. 9 Q. What do you mean by chain 10 headquarters? 11 A. So let's look at Walgreens 12 for example. I wouldn't go and call on, 13 or my team wouldn't go and call on a 14 Walgreens pharmacy on Main Street. Our 15 team was responsible for calling on the 16 national headquarters in Deerfield, 17 Illinois, for that. And that was our -- 18 that was our contact. 19 Q. Understood. But you were 20 responsible then for outlining the 21 desired message of the new hydrocodone 22 advertisement; is that right? 23 A. I would be -- I would be 24 included in that discussion, yes.</p>	<p style="text-align: right;">Page 40</p> <p>1 sheet, and sales aid were rolled out in 2 August." 3 Do you see that? 4 A. I do see that. 5 Q. Okay. And what was the sell 6 sheet? 7 A. That -- that's another term 8 for an advertisement if you will. So a 9 sell sheet is basically, again, given to 10 the headquarter level to create awareness 11 at that level. 12 Q. And do you recall anything 13 about that particular sell sheet? 14 A. I don't recall anything 15 about that particular sell sheet, no. 16 Q. And what was the sales aid? 17 A. I would use those 18 interchangeably. 19 Q. Sales aid and sell sheet? 20 A. Yeah, I can't think of how 21 to differentiate the two, because I don't 22 recall a different -- a different 23 component of that. 24 Q. And do you see it goes on to</p>
<p style="text-align: right;">Page 39</p> <p>1 Q. And do you recall the 2 hydrocodone advertisement at that time? 3 A. I don't remember it 4 specifically, but maybe to put it into 5 context, more hydrocodone messaging would 6 be -- it would list the NDC, national 7 drug code. It would list the item 8 number, product description, and some 9 bullet points. So it was something that 10 we could provide at the headquarter level 11 for -- for them to kind of build again, 12 kind of reinforce our position in the 13 market, the market defined as 14 headquarters and national distributors 15 and chains, et cetera. 16 Q. Do you recall whether that 17 hydrocodone advertisement was a graphic 18 with a picture? 19 A. I don't recall. 20 Q. You don't recall anything 21 about it? 22 A. No, I don't. No, I don't. 23 Q. And -- and it goes on to 24 state that the "advertisement, sell</p>	<p style="text-align: right;">Page 41</p> <p>1 state that the "advertisement 2 communicates the strengths of our line as 3 well as highlights the fact that this is 4 the Number 1 selling generic in the U.S." 5 Do you see that? 6 A. I do see that. 7 Q. So you had an understanding 8 at the -- at the time that hydrocodone 9 was the Number 1 selling generic in the 10 United States? 11 A. It was based on IMS data. 12 So IMS basically highlights the units 13 sold into the market, and by market, it's 14 not down to any level other than into the 15 channel of distribution, independents, 16 change, long-term care facilities, et 17 cetera. 18 So by units, that was the 19 definition that IMS utilized. 20 Q. By units, hydrocodone was 21 the Number 1 selling generic in the U.S. 22 in 2004, correct? 23 A. Yes. 24 Q. Okay. And the secondary</p>

<p style="text-align: right;">Page 42</p> <p>1 messages of the advertisements were that,  2 "A, the benefits to patients by the  3 extent of offerings of strengths and  4 dosage forms; and B, the benefits to  5 pharmacists by offering punch cards, unit  6 dose and bulk totes; and C, reliable  7 service and supply leveraging the  8 vertical integration."  9 Do you see that?  10 A. I do see that, yes.  11 Q. And do you recall what  12 benefits to patients were stated on the  13 advertisements?  14 A. Well, maybe if -- if we can  15 look at all of these kind of in -- in  16 context. The benefits would be  17 communicated to the pharmacist who would  18 be then dispensing a product based on a  19 physician's prescription, that we had  20 various strengths. So you would have a  21 5-milligram of hydrocodone and  22 325 milligrams of acetaminophen. That  23 patient who, because of their doctor's  24 prescription was prescribed that amount.</p>	<p style="text-align: right;">Page 44</p> <p>1 to make sure that if you were in a  2 hospital, you had a unit-dose product.  3 If you were -- and that's long-term care.  4 A punch card would be there  5 so you could have that, that would  6 benefit that healthcare facility who is  7 dispensing what the physician prescribed.  8 And bulk totes, similarly they would put  9 those into a dispensing machine for the  10 convenience of the pharmacy.  11 Q. What -- what is a bulk tote  12 exactly?  13 A. A bulk tote, so typically  14 you would sell a product in a bottle of  15 100 tablets or capsules, whatever the  16 dosage form is, 500 count. A lot of  17 times you would take a bulk tote and you  18 would sell it in a quantity of a  19 thousand, for example. And let's say  20 that a hospital was using a product like  21 this. And while we had a unit dose  22 package or a punch card, some hospitals  23 chose to have their own proprietary  24 packaging configuration. They would take</p>
<p style="text-align: right;">Page 43</p> <p>1 We also would have a strength  2 10-milligram of hydrocodone and  3 600 milligrams of acetaminophen, the  4 doctor deemed that the patient needed  5 that amount. So that's why, when you  6 talk about the benefits to the patient,  7 you have a different dose of product as  8 the doctor determines is needed for that  9 specific patient.  10 Q. But you don't recall, as you  11 sit here today, what the benefits were  12 that were identified on these advertising  13 documents, correct?  14 A. The -- the benefits as  15 highlighted here. I can only take it for  16 the context I can provide, and that is  17 based on what the doctor deemed was a  18 benefit to the patient, we had the  19 offering that could be -- be available  20 there.  21 So -- and as I mentioned  22 before, I think to put it all into  23 context is again punch cards, unit dose  24 and bulk totes, those all were designed</p>	<p style="text-align: right;">Page 45</p> <p>1 the bulk tote and put it into their own  2 repackaging machine.  3 And then they could use it  4 to their configuration. So it was -- it  5 gave them what fit their need at the  6 pharmacy level versus, you know, trying  7 to have them fit into what package  8 offerings we held.  9 Q. And when you referenced a  10 dispensing machine, who had access to the  11 dispensing machine?  12 A. The pharmacist would -- the  13 actual pharmacy would have a potential  14 different machine that they could pour  15 the pills into, and then it would count  16 out if that -- if the patient was  17 prescribed by their physician five  18 tablets, it could dispense five.  19 Or it could take that and  20 take and put one tablet into a little  21 unit dose pouch and do that for each  22 individual patient that the physician had  23 prescribed the product for. And so it's  24 just a -- there are multiple companies</p>

<p style="text-align: right;">Page 46</p> <p>1 that have different dispensing based on 2 their particular needs. 3 Q. And what's a punch card 4 exactly? 5 A. A punch card is -- it's a -- 6 think of a bingo card. And the bingo 7 card, it has a punch that you could punch 8 a pill out of. And in a nursing home for 9 example, there may be a patient who would 10 have a one-week supply of product 11 prescribed by their doctor. And that 12 punch card could have hydrocodone in it. 13 And they can put in day one, day two, day 14 three, day four, day five, day six, day 15 seven, exactly those days, and put in 16 that full week of that product, as well 17 as atenolol or other prescription 18 products. 19 We wouldn't put it in in 20 that form, but we could do it with just 21 the hydrocodone in what a long-term care 22 facility would require. 23 Q. Okay. If you turn to the 24 next page you'll see under one part of</p>	<p style="text-align: right;">Page 48</p> <p>1 Q. Do you recall using that new 2 hydrocodone advertising at any wholesaler 3 trade shows? 4 A. I don't recall it 5 specifically, but I do recall having sell 6 sheets, if you will, for the wholesaler 7 trade shows and NACDS. 8 Q. And who attended the 9 wholesaler trade shows? 10 A. The wholesaler trade shows 11 would be the wholesaler who's -- who we'd 12 be calling on, so for example McKesson, 13 AmerisourceBergen, Cardinal, just to name 14 a few. 15 And then who would be 16 attending that would be their customers, 17 the pharmacy level. So that would be you 18 know, Joe's Pharmacy on Main Street. It 19 could be Rite Aid pharmacy. It could be 20 a CVS pharmacy who purchases through one 21 of these wholesalers. So it's all at the 22 pharmacist level. 23 Q. And do you recall, did 24 Mallinckrodt have a booth at these trade</p>
<p style="text-align: right;">Page 47</p> <p>1 the performance evaluation, there's a 2 heading, "Continuous Quality 3 Improvement." 4 Do you see that? 5 A. What page are you on here? 6 Q. It ends in 692. 7 A. I see that heading, yes. 8 Q. And towards the end of that 9 paragraph it states, "Additionally, under 10 his leadership, he was able to get the 11 new hydrocodone advertising back on track 12 and execute in time to meet the deadlines 13 for the wholesaler trade shows and 14 NACDS." It goes on to state, "He 15 improved the direction and clarity of 16 communication to our ad agency and 17 responded quickly gaining management's 18 approval for the concept." 19 Do you see that? 20 A. Yeah. If I could I'll read 21 it in full context. 22 Q. Okay. 23 A. Thank you. Okay, I have the 24 context. Could you repeat?</p>	<p style="text-align: right;">Page 49</p> <p>1 shows? 2 A. It would depend upon the 3 show. 4 Q. And did you attend the shows 5 yourself? 6 A. I would attend shows, not 7 all of them, but some of them, yes. 8 Q. Generally how often did you 9 attend trade shows related to your opioid 10 products? 11 A. I would attend an estimated 12 three trade shows per quarter. But it 13 wasn't specific to opioid products. It 14 would be for the Mallinckrodt as an 15 organization, and also, just to represent 16 a full product line that we had. 17 Q. And at those trade shows, 18 you would have -- you would -- -- would 19 you pass out the sell sheets? 20 A. We would have trade -- we 21 would have sell sheets at trade shows 22 available as a reference, and it would be 23 sitting on the table as a handout as 24 well.</p>



<p style="text-align: right;">Page 50</p> <p>1 Q. And what was NACDS?</p> <p>2 A. The National Association of</p> <p>3 Chain Drug Stores. That is -- that is</p> <p>4 the trade association for the chain</p> <p>5 headquarters that were our customers. So</p> <p>6 if -- to put it into context, think CVS,</p> <p>7 Walgreens, Rite Aid, those types of</p> <p>8 organizations were members of the NACDS.</p> <p>9 Q. And did you -- did you</p> <p>10 attend NACDS trade shows as well?</p> <p>11 A. Yes, I would attend those on</p> <p>12 an annual basis.</p> <p>13 Q. And you would bring the same</p> <p>14 hydrocodone marketing materials to those</p> <p>15 as well?</p> <p>16 A. NA -- no, traditionally with</p> <p>17 that you would bring more of a business</p> <p>18 review. And that was more of a</p> <p>19 discussion of how your sales dollars</p> <p>20 were, how was your performance. And you</p> <p>21 would have typically a presentation that</p> <p>22 you would go over. We would have, for</p> <p>23 example, an LCD -- an LCD project or on</p> <p>24 the screen, and we would use that</p>	<p style="text-align: right;">Page 52</p> <p>1 So it really run anything</p> <p>2 that you would walk into a chain pharmacy</p> <p>3 and see, could be attending a meeting</p> <p>4 such as this.</p> <p>5 Q. And when you did</p> <p>6 presentations at NACDS meetings, did</p> <p>7 those presentations include</p> <p>8 product-specific information for your key</p> <p>9 products?</p> <p>10 A. We would tend to go down --</p> <p>11 I can't say this for every meeting. But</p> <p>12 as a general rule, we would have a</p> <p>13 business review that would start at the</p> <p>14 top level. Here are your sales year to</p> <p>15 date. Here they are compared to last</p> <p>16 year. Then you would drill down into</p> <p>17 product specific, how are you doing in</p> <p>18 your sales versus previous years.</p> <p>19 Q. Do you recall placing</p> <p>20 journal advertisements for Mallinckrodt's</p> <p>21 opioid products?</p> <p>22 A. We had a team that would do</p> <p>23 that, a different division that would do</p> <p>24 that. But I do recall advertisements to</p>
<p style="text-align: right;">Page 51</p> <p>1 messaging in our presentation and</p> <p>2 business review with, for NACDS, the</p> <p>3 chains. But wholesalers would also</p> <p>4 attend that, distributors would also</p> <p>5 attend that meeting. So that would be</p> <p>6 the customer base that we would have.</p> <p>7 Q. Did anybody else attend the</p> <p>8 NACDS meetings that you recall?</p> <p>9 A. As far as competitors? Or</p> <p>10 as far as Mallinckrodt employees? What</p> <p>11 are you --</p> <p>12 Q. No. Outside of</p> <p>13 Mallinckrodt.</p> <p>14 A. Outside of Mallinckrodt.</p> <p>15 Yeah, it would encompass the majority of</p> <p>16 pharmaceutical companies in the country.</p> <p>17 It would also include pharmacy providers.</p> <p>18 So as I spoke to the bulk totes in the</p> <p>19 past, earlier today, there would be</p> <p>20 manufacturers of the dispensing machines</p> <p>21 who would be present. There would be</p> <p>22 people who would be there representing</p> <p>23 over-the-counter medications, greeting</p> <p>24 cards.</p>	<p style="text-align: right;">Page 53</p> <p>1 pharmacies, chain and wholesaler</p> <p>2 headquarters, as our target, yes.</p> <p>3 Q. And do you remember what</p> <p>4 journals -- in what journals you placed</p> <p>5 such ads for opioid products?</p> <p>6 A. Drug Store News, Pharmacy</p> <p>7 Times, Drug Store Management, Chain Drug</p> <p>8 Review.</p> <p>9 So those are the ones --</p> <p>10 U.S. Pharmacist.</p> <p>11 So those are the ones that I</p> <p>12 can recall.</p> <p>13 Q. Was the NACDS conference</p> <p>14 considered a key project -- strike that.</p> <p>15 How many NACDS conferences</p> <p>16 would you attend per year?</p> <p>17 A. They have two separate</p> <p>18 meetings. One -- so there are two per</p> <p>19 year. One is the one I referred to</p> <p>20 earlier. And that is now referred to as</p> <p>21 NACDS Total Store Expo. And that is a</p> <p>22 meeting that occurs at the end of August</p> <p>23 every year. I would attend that on an</p> <p>24 annual basis.</p>



<p style="text-align: right;">Page 54</p> <p>1           There's also another meeting 2 called NACDS annual that occurs roughly 3 April of every year. I didn't begin 4 attending that, I don't believe, until I 5 was director of sales and vice president 6 of sales. 7           In that case, you would meet 8 with the senior management teams from 9 wholesalers. Most of the time 10 distributors would not be there. But 11 wholesalers and chain headquarters. 12           MS. BAIG: Counsel, do you 13 know whether the sell sheets and 14 the advertising that we've just 15 talked about has all been 16 produced? 17           MR. TSAI: I can check and 18 confirm with you. 19           MS. BAIG: That would be 20 great. Thank you. 21           Let's have marked as 22 Exhibit 3 this stack of 23 performance evaluations. I will 24 represent that was produced to us</p>	<p style="text-align: right;">Page 56</p> <p>1           Bates-stamped copy that you have. 2           MS. BAIG: Well, for the 3 record, it appears to be a 4 document about half an inch thick 5 that begins -- it states it's 6 Covidien John Adams view 7 assessment, and starts with 8 performance goals for 2007. 9 BY MS. BAIG: 10          Q. Do you see that? 11          A. I do. 12          Q. Okay. And if you flip 13 through this document, do you see that it 14 generally appears to be a series of -- of 15 performance evaluations and other 16 documents from your personnel file? 17          A. Yes. 18          Q. And in -- the first one is 19 for 2007. So at that time, your position 20 was what, again? 21          A. I believe this was still 22 senior product manager. I can't say that 23 for certain. I mean there -- there's 24 again timelines when the promotions</p>
<p style="text-align: right;">Page 55</p> <p>1           last night at about 10:45 p.m. 2           (Document marked for 3 identification as Exhibit 4 Mallinckrodt-Adams-3.) 5 BY MS. BAIG: 6          Q. So we just have that one 7 copy that you'll have to share with your 8 counsel. 9           MS. BAIG: And obviously I 10 have not had an opportunity to 11 read these in detail. But I'd 12 like to attach them to the record. 13 And -- and we reserve our right to 14 reopen questioning if necessary. 15           This document does not 16 appear to be Bates stamped; is 17 that right? 18           MR. TSAI: We have produced 19 a Bates-stamped copy yesterday and 20 we identified that to you. 21           For convenience we 22 separately printed out a hardcopy 23 to use it as an exhibit today. So 24 there -- the -- there is a</p>	<p style="text-align: right;">Page 57</p> <p>1 were -- I don't -- I don't recall 2 exactly, so... 3          Q. Okay. But in all of -- 4          A. I'm just looking to see if 5 it does state that. I just don't recall. 6          Q. In all of your positions at 7 Mallinckrodt, did you understand that it 8 was your job to maximize sales? 9           MR. TSAI: Object to form. 10          Go ahead. 11           THE WITNESS: My -- my 12 goal -- certainly one of the 13 objectives that I had is to -- to, 14 yes, have sales targets and to 15 work to achieve or exceed those, 16 but as you can see from this, 17 there are multiple goals, that 18 being one of them. 19 BY MS. BAIG: 20          Q. Would you agree that that 21 was one of the key goals? 22          A. They all have various 23 weightings just like any performance 24 review. I don't have the exact weighting</p>

<p style="text-align: right;">Page 58</p> <p>1 for this scenario.</p> <p>2 Q. Do you see at the very top</p> <p>3 of this page, the first item that's</p> <p>4 listed under expected results, it states,</p> <p>5 "Increase net margin of products</p> <p>6 available through the Zydus alliance from</p> <p>7 200,000 to \$7.9 million before split by</p> <p>8 gaining share of already launched</p> <p>9 products and capitalize on fiscal year</p> <p>10 '07 launches."</p> <p>11 Do you see that?</p> <p>12 A. I do.</p> <p>13 Q. And what was Zydus alliance?</p> <p>14 A. Zydus was a pharmaceutical</p> <p>15 company in which Mallinckrodt had an</p> <p>16 alliance. So Zydus was -- existed</p> <p>17 outside the U.S., but was just launching</p> <p>18 its own product in the U.S. and needed to</p> <p>19 have a sales team represent them at</p> <p>20 various chains and wholesalers. And so</p> <p>21 this alliance was developed.</p> <p>22 They had a different product</p> <p>23 portfolio that was all noncontrolled,</p> <p>24 non-opioid drugs. And so this was an</p>	<p style="text-align: right;">Page 60</p> <p>1 reports, Jeff Burd and Bonnie New that</p> <p>2 you mentioned earlier?</p> <p>3 A. Yes, that's true.</p> <p>4 Actually correction. I</p> <p>5 didn't mention them earlier. I don't</p> <p>6 recall them reporting to me, which is --</p> <p>7 again, I hope they won't be insulted by</p> <p>8 that. But that is not who I mentioned</p> <p>9 before. I mentioned Rebecca Coyner and a</p> <p>10 person with the name John who I don't</p> <p>11 recall his name. I didn't recall that</p> <p>12 Jeff and Bonnie reported to me.</p> <p>13 Q. Okay. But here, now that</p> <p>14 you see this document, do you recall that</p> <p>15 Jeff Burd reported to you?</p> <p>16 A. Yeah, I -- I --</p> <p>17 Q. And he was the product</p> <p>18 manager for product pricing and promotion</p> <p>19 of the hydrocodone family and the</p> <p>20 oxycodone family?</p> <p>21 A. Yeah, yeah. I mean this --</p> <p>22 this triggers that. But again, I didn't</p> <p>23 recall that.</p> <p>24 Q. And then if you look at the</p>
<p style="text-align: right;">Page 59</p> <p>1 initiative that we worked on to -- to</p> <p>2 drive sales of, as I stated, non-opioids,</p> <p>3 non -- noncontrolled substances.</p> <p>4 And to inject some humor</p> <p>5 into this, I can say I failed in my</p> <p>6 objective. Apparently I fell</p> <p>7 \$2.5 million short of my objective. So</p> <p>8 not a good performance.</p> <p>9 Q. If you skip to the second</p> <p>10 stapled document in the packet. That</p> <p>11 appears to be performance goals for 2006.</p> <p>12 Do you see that?</p> <p>13 A. I do see that, yes.</p> <p>14 Q. And if you skip -- skip then</p> <p>15 to the third document. It's titled</p> <p>16 Marketing Department Overview. Do you</p> <p>17 see that?</p> <p>18 A. I do see this, yes.</p> <p>19 Q. And it's -- it's showing</p> <p>20 that, as senior product manager, you were</p> <p>21 part of the marketing department; is that</p> <p>22 right?</p> <p>23 A. That is correct.</p> <p>24 Q. And those are the two</p>	<p style="text-align: right;">Page 61</p> <p>1 next document, it appears to be</p> <p>2 performance goals for 2005. Do you see</p> <p>3 that?</p> <p>4 A. I do see that.</p> <p>5 Q. And there's a reference in</p> <p>6 expected results to HD/APAP. What is</p> <p>7 that?</p> <p>8 A. Hydrocodone with</p> <p>9 acetaminophen.</p> <p>10 Q. And so your expected result</p> <p>11 here was to formalize the micro-marketing</p> <p>12 campaign strategy for hydrocodone with</p> <p>13 acetaminophen by the end of Quarter 2 and</p> <p>14 achieve \$130 million in fiscal year '05</p> <p>15 sales or a \$17 million increase over</p> <p>16 fiscal year '04.</p> <p>17 Do you see that?</p> <p>18 A. I do. This was specific to</p> <p>19 the micro-marketing that's being referred</p> <p>20 here.</p> <p>21 Let me just finish this.</p> <p>22 Okay. Yes. I'm sorry,</p> <p>23 could you repeat your question?</p> <p>24 Q. So your expected result was</p>

<p style="text-align: right;">Page 62</p> <p>1 to formalize the micro-marketing campaign  2 strategy for hydrocodone with  3 acetaminophen by the end of fiscal year  4 '05?</p> <p>5 A. Yes. And the  6 micro-marketing campaign, as I look  7 through this, AmerisourceBergen has a  8 generic source program, which they have  9 customers that are enrolled in this  10 program. And so if a pharmacy orders a  11 specific product -- so in this case,  12 let's say -- let's say they order  13 hydrocodone with acetaminophen, the goal  14 was to be the primary dispensed product.  15 So that pharmacist would order a product  16 based on their demand. And then  17 AmerisourceBergen in this case would ship  18 their primary product that was on that  19 source program.</p> <p>20 In this case, we were not  21 initially the primary product, but we  22 earned what was called a dual primary.  23 So that meant the pharmacist, in ordering  24 the product, could choose Actavis, or at</p>	<p style="text-align: right;">Page 64</p> <p>1 Our goal was to get 600 thousand of that.  2 Is that right? Yeah, of  3 that amount to -- which was again just  4 filling what was already there as the  5 demand that their pharmacist had, but it  6 didn't expand the amount of pills being  7 used.</p> <p>8 Q. And what was the  9 micro-marketing campaign strategy for  10 this hydrocodone product?</p> <p>11 A. I don't remember specifics,  12 but as I read through this, there is an  13 inside sales team that would call the  14 pharmacies and let the pharmacies -- make  15 them aware that when they ordered from  16 AmerisourceBergen, they had a choice  17 between Mallinckrodt product or Watson  18 product. And they could work to talk  19 with those pharmacists to make them aware  20 of our access on that contract.</p> <p>21 Q. Do you see maybe two pages  22 in, there's a document with an eagle on  23 it that states, "Trust in our strengths"?  24 A. Yes.</p>
<p style="text-align: right;">Page 63</p> <p>1 that time Watson product, or Mallinckrodt  2 product.</p> <p>3 So our goal was if that  4 pharmacist was to order the product based  5 on their own demand, that the product  6 that was -- that was -- that they chose  7 was ours, instead of Watson.</p> <p>8 So it was nothing more  9 than -- than if 100 percent of the market  10 is being pulled through this particular  11 wholesaler, we wanted to be the one that  12 the pharmacist chose.</p> <p>13 Q. You wanted to increase  14 market share?</p> <p>15 A. We wanted to increase our  16 market share of that customer. But that  17 does not do anything to increase the  18 market itself. So if AmerisourceBergen  19 has 100 million doses that they sell into  20 the market, our goal was to get six --  21 excuse me, 600,000 -- excuse me, 600 --  22 sorry, what did I say, a hundred million.  23 Sorry.</p> <p>24 A hundred million doses.</p>	<p style="text-align: right;">Page 65</p> <p>1 Q. It also states, "Hydrocodone  2 bitartrate and acetaminophen."  3 A. Yes.</p> <p>4 Q. Do you -- do you know what  5 this is?</p> <p>6 A. Yes, I'm familiar with --  7 I'm familiar with the document.</p> <p>8 Q. What is it?</p> <p>9 A. This would be considered a  10 sell sheet or something that would -- in  11 this case I don't know how it was used.  12 But it would talk about the key strengths  13 of Mallinckrodt. And it -- you can't --  14 you can't read it down below here, but  15 that we made the active ingredient, that  16 we manufactured the actual product  17 itself. We had specific packaging to  18 meet the pharmacist's need. And we were  19 able to distribute product into the  20 marketplace through our -- through our  21 trade partners.</p> <p>22 Q. And do you see, though it's  23 hard to read, just under, "Trust in our  24 strengths," it says, "Soar" -- S-O-A-R --</p>

<p style="text-align: right;">Page 66</p> <p>1 "Soar with the Number 1 selling generic 2 in America." 3 Do you see that? 4 A. I do see that. So that 5 again is referencing the IMS. You can't 6 make a claim without having a reference 7 on something like that. 8 So that was just referencing 9 our position in the market relative to 10 the IMS data. 11 Q. So you were able to track 12 that hydrocodone was the Number 1 product 13 in America from the IMS data, correct? 14 A. As far as -- every generic 15 pharmaceutical company in the country is 16 able to and does purchase IMS data to 17 obtain reporting. 18 Q. And the next page -- 19 A. And just to clarify. The 20 IMS data is products sold into 21 pharmacies, long-term care, all of that. 22 It's not sales out of pharmacies into 23 patients. We just don't have that 24 visibility through an IMS report.</p>	<p style="text-align: right;">Page 68</p> <p>1 MS. BAIG: I'm just asking. 2 THE WITNESS: Yeah, yeah, no 3 problem. 4 So what you had access to -- 5 I don't agree with the beginning 6 part of that. Or maybe that's why 7 it's the question. 8 What it provides you is 9 information on where it was sold 10 to from the wholesaler or 11 distributor in this case. And so 12 what I will -- what I'll do is 13 kind of walk through that process. 14 When I sold a product to 15 AmerisourceBergen, I didn't know 16 where that product was going to be 17 purchased, what pharmacy was going 18 to purchase it off of which 19 contract. 20 So when I would sell it to 21 AmerisourceBergen for \$100, there 22 were contracts with various 23 pharmacy groups that would 24 purchase that product from</p>
<p style="text-align: right;">Page 67</p> <p>1 Q. No. But you have that 2 visibility through your chargeback data, 3 correct? 4 A. No. That is incorrect. You 5 don't know what happens beyond the 6 pharmacy itself. 7 So where that goes to a 8 patient -- chargeback data is a financial 9 transaction, basically bringing product 10 from gross to net. A chargeback does not 11 give you any information that would say 12 why the doctor prescribed your product, 13 who it went to, the reason that it went 14 to that patient. 15 Q. So your understanding of 16 chargeback data, as you sit here right 17 now, is that you would not be able to see 18 any of your downstream customers, so you 19 would only be able to see sales to your 20 direct customers, but you had no access 21 to any data for any of their customers. 22 Is that your understanding? 23 MR. TSAI: Object to form. 24 Mischaracterizes testimony.</p>	<p style="text-align: right;">Page 69</p> <p>1 AmerisourceBergen. 2 So a GPO, a group purchasing 3 organization, who buys for a group 4 of hospitals, negotiates for a 5 group of hospitals, I don't know, 6 when AmerisourceBergen purchases 7 that, where that's going to go. 8 So it may go to a hospital. 9 It may go to an independent 10 pharmacy. It may go to a 11 long-term care nursing home. It 12 may go to a chain pharmacy. 13 So this is a way of 14 reconciling what you sold at that 15 \$100 price to net it down to that 16 contract price that was there. So 17 I sold it to AmerisourceBergen for 18 100. They sold it to that 19 contract for \$75. 20 AmerisourceBergen is not going to 21 take a loss on that product. They 22 charge me back for the difference 23 between what they purchased for 24 and then what they sold it to that</p>

<p style="text-align: right;">Page 70</p> <p>1 specific customer for.</p> <p>2 BY MS. BAIG:</p> <p>3 Q. Sure. And when they -- when</p> <p>4 they submit that chargeback data to you,</p> <p>5 you are then able to see who it was that</p> <p>6 AmerisourceBergen sold the product to,</p> <p>7 whether it was a pharmacy or whether it</p> <p>8 was a pain clinic or whether it was a</p> <p>9 hospital or whoever it was, correct?</p> <p>10 A. You could see that it went</p> <p>11 to a pharmacy. So yes, but you didn't</p> <p>12 know that -- what that pharmacy, you</p> <p>13 know, did they -- what physician</p> <p>14 prescribed that product or did it go to,</p> <p>15 you know -- what information went beyond</p> <p>16 that pharmacy, you don't have that</p> <p>17 information.</p> <p>18 Q. You could see who</p> <p>19 AmerisourceBergen sold the product to,</p> <p>20 though, correct?</p> <p>21 A. There was data that would</p> <p>22 tell you which pharmacy it went to. But</p> <p>23 if you're asking who it went to, nothing</p> <p>24 beyond the pharmacy was included in that</p>	<p style="text-align: right;">Page 72</p> <p>1 A. Correct. And you wouldn't</p> <p>2 know what type of pharmacy Joe's Pharmacy</p> <p>3 was. You could say -- Joe's Pharmacy, it</p> <p>4 may be an independent pharmacy. It may</p> <p>5 be a long-term care pharmacy. You don't</p> <p>6 know what their particular patient</p> <p>7 population is that they serve or what</p> <p>8 channel they're in.</p> <p>9 Q. And if you turn to, I</p> <p>10 believe, what is the next document. It</p> <p>11 states, "October 1, 2003, to</p> <p>12 September 30, 2004, Tyco Healthcare</p> <p>13 annual incentive plan."</p> <p>14 Do you see that?</p> <p>15 A. I do see the document. Yes.</p> <p>16 Q. And was this your annual</p> <p>17 incentive plan at the time?</p> <p>18 A. I have to look to see if</p> <p>19 it's specific for me. I know it's got my</p> <p>20 name on it. But if this is broader,</p> <p>21 so...</p> <p>22 Yes.</p> <p>23 Q. Okay. And you see under</p> <p>24 Objective 2, it says, "Base products,</p>
<p style="text-align: right;">Page 71</p> <p>1 data.</p> <p>2 Q. Right. But you could see</p> <p>3 who AmerisourceBergen was selling the</p> <p>4 product to, so whether it was a pharmacy,</p> <p>5 a hospital, a pain clinic, whoever it</p> <p>6 was, you could see the entity that</p> <p>7 AmerisourceBergen sold the product to.</p> <p>8 A. It wouldn't come across as a</p> <p>9 class of trade. So let's say</p> <p>10 AmerisourceBergen sold to Joe's Pharmacy,</p> <p>11 or it sold to CVS. I could say, oh, it's</p> <p>12 sold to CVS. Yes, that is a chain</p> <p>13 pharmacy. When it sold to Joe's</p> <p>14 Pharmacy, I wouldn't know if Joe's</p> <p>15 pharmacy was affiliated with a hospital,</p> <p>16 was affiliated with a pain clinic. I</p> <p>17 wouldn't know what type of pharmacy that</p> <p>18 was. It didn't come across and say, oh,</p> <p>19 this is a chargeback affiliated with a</p> <p>20 specific class of trade.</p> <p>21 Q. So it didn't tell you the</p> <p>22 class of trade of Joe's Pharmacy, but you</p> <p>23 could see that AmerisourceBergen sold the</p> <p>24 product to Joe's Pharmacy, right?</p>	<p style="text-align: right;">Page 73</p> <p>1 create/execute new sales/" -- I think it</p> <p>2 says -- "AFO/graphics for the hydrocodone</p> <p>3 product line."</p> <p>4 Do you see that?</p> <p>5 A. I do see the line that</p> <p>6 you're referring to. I don't know what</p> <p>7 AFO stands for. So this is, yes, one of</p> <p>8 two objectives. One is sales on</p> <p>9 anagrelide. One is on base products,</p> <p>10 yes.</p> <p>11 Q. And this objective was</p> <p>12 weighted at 50 percent; is that right?</p> <p>13 A. That is correct.</p> <p>14 Q. What was your understanding</p> <p>15 of your annual incentive plan?</p> <p>16 Or let me put it this way.</p> <p>17 Is your annual incentive plan, is that a</p> <p>18 bonus plan?</p> <p>19 A. Yes. It -- it would tie</p> <p>20 into your bonus at the end of the year,</p> <p>21 correct.</p> <p>22 Q. And did you have any other</p> <p>23 incentive plans other than an annual</p> <p>24 incentive plan? For example, did you</p>



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1 also have a long-term incentive plan?

2 A. I -- I don't know

3 specifically. I just don't recall.

4 If -- if there was a

5 breakout of long-term and short-term, I

6 had that at Dr. Reddy's. I'm just foggy

7 on if I had that at Mallinckrodt.

8 Q. And do you recall what your

9 base salary was roughly when you began at

10 Mallinckrodt and what it was when you

11 left?

12 A. I know when I started it was

13 [REDACTED] a year plus bonus. But I don't

14 know what the bonus was.

15 And then I don't remember

16 what it was when I left.

17 Q. Do you -- can you give me

18 your best estimate of around what it was

19 when you left?

20 A. I would say around [REDACTED]

21 annually.

22 Q. And do you have a general

23 recollection of the way that your

24 bonus -- bonuses changed over the years

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1 while you were at Mallinckrodt?

2 A. I don't recall.

3 Q. Do you recall whether or not

4 they grew?

5 A. I don't recall specifically.

6 I would assume that with increasing

7 responsibility I had increasing bonus

8 percent.

9 I know as I transitioned

10 into vice president of sales, there would

11 be higher potential relative to that

12 bonus. I just don't recall along the way

13 what the progression was.

14 Q. Do you recall being part of

15 the stock -- a stock plan at some point?

16 A. Yes. I don't remember

17 specifics on it. But I did receive stock

18 based on some interval and I don't know

19 what it was. I just don't recall.

20 Q. So if you turn a couple

21 pages down, you'll see, "Tyco TAIP

22 summary bonus payout breakdown for fiscal

23 year '04."

24 Do you see that?

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1 A. I do see that, yes.

2 Q. And it indicates that your

3 annual salary is about [REDACTED] and your

4 target bonus opportunity was about

5 [REDACTED] percent.

6 Do you see that?

7 A. Yes, I do.

8 Q. And right under that it

9 states, "Bonus multiplier of

10 [REDACTED] percent."

11 Do you see that?

12 A. I do see that.

13 Q. What was the bonus

14 multiplier?

15 A. So if my target was

16 [REDACTED] percent, which again I didn't recall,

17 that meant that I was -- that I earned

18 [REDACTED] percent of the [REDACTED] percent. And

19 then the proration is -- I don't remember

20 the fiscal year. But that must have been

21 the amount of months I was in during the

22 fiscal year at Mallinckrodt.

23 Q. And if you skip maybe five

24 or six pages you'll see a page that

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1 begins "A career built on more than

2 words: Tyco Healthcare internal job

3 board." And it says position director --

4 A. Sorry, I'm -- I haven't

5 found it.

6 Q. -- director of sales.

7 So I'm just describing it so

8 you can see it since it's not Bates

9 stamped.

10 A. Okay. I see it.

11 Q. And this is the position

12 description for the position that you

13 moved into when you became director of

14 sales; is that right?

15 A. Yes.

16 Q. And if you skip maybe five

17 or six more pages. You'll see a 2007

18 stock and incentive plan.

19 A. It looks like there are two

20 of them with the same title.

21 Q. Let's look at the 2007 -- or

22 the -- I'm looking at the one granted on

23 July 1st, 2008.

24 A. They both have the same



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1 heading. I'm sorry. Maybe this -- I  
 2 just want to make sure I'm referring to  
 3 the right one.  
 4 Q. Let's look at the first one.  
 5 A. Okay.  
 6 Q. And does this refresh your  
 7 recollection that at least around July of  
 8 2008, that you were part of the stock and  
 9 incentive plan?  
 10 A. This -- yeah, this looks  
 11 like the plan laid out. What I don't  
 12 know is how it -- if it -- this was  
 13 specific to me or what, you know, what  
 14 was the context of this relative to  
 15 anyone else in the division. So I don't  
 16 know. Yeah, I don't know specifically if  
 17 this is related to me or -- or just as a  
 18 broad organization.  
 19 Q. Well, I can represent to you  
 20 that your counsel produced it as part of  
 21 your personnel file. Do you have any  
 22 reason to doubt that this was the plan  
 23 that you were part of?  
 24 MR. TSAI: Oh, just as a

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1 clarification. I think we -- it  
 2 was his home personal file.  
 3 Just -- you said personnel. So  
 4 these were hard copies that we  
 5 gathered from Mr. Adams' home,  
 6 home office.  
 7 MS. BAIG: Oh, I see.  
 8 BY MS. BAIG:  
 9 Q. So you produced these from  
 10 files that you had at your home?  
 11 A. Correct. I have a  
 12 compensation history file --  
 13 Q. Okay.  
 14 A. -- and that's what this came  
 15 from, correct.  
 16 Q. Okay. So is there any  
 17 reason to doubt that this was the plan  
 18 that you were part of?  
 19 A. No. I don't know that it  
 20 was specifically for me, but it  
 21 certainly -- if I received information  
 22 regarding incentives that related to me,  
 23 I would have -- I would have it retained  
 24 somewhere. Somewhere in this file.

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1 Q. And if you skip a couple  
 2 documents further, you'll see there is a  
 3 document titled "2008 total cash  
 4 compensation statement "for John Adams,"  
 5 with a pie chart.  
 6 I think it's before that  
 7 document. So it's the document before  
 8 this one.  
 9 A. Thank you. Appreciate it.  
 10 Q. Sure.  
 11 So you see here it reflects  
 12 your 2008 base salary as being [REDACTED].  
 13 And a few lines down, your 2009 base  
 14 salary as being [REDACTED]. Do you see  
 15 that?  
 16 A. I do see that, yes.  
 17 Q. And then it identifies your  
 18 target bonus opportunities, correct?  
 19 A. I do see, yes, the various  
 20 components, yes.  
 21 Q. Okay. And it identifies as  
 22 target bonus opportunities, pharma sales  
 23 growth at 40 -- 40 percent, pharma gross  
 24 margin at 30 percent, and pharma

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1 operating income at 30 percent. Do you  
 2 see that?  
 3 A. I do see that, yes.  
 4 What I don't know on this,  
 5 and I don't recall if -- as -- as this  
 6 was VP of sales, pharma, I don't know if  
 7 that's tied to just generics, or if  
 8 that's tied to more, is it a global  
 9 number, global being defined as the  
 10 broader than just generic. I don't know  
 11 what this references. And so I -- I wish  
 12 I had more detail, and I just don't.  
 13 Q. Do you see the pie chart to  
 14 the right where it states your total cash  
 15 compensation?  
 16 A. I do.  
 17 Q. And there's a shaded area  
 18 that reflects merit increase?  
 19 A. Yes. There's two shaded  
 20 areas. One is merit and one is  
 21 performance bonus.  
 22 Q. And then there's the current  
 23 base salary, correct?  
 24 A. Correct.

<p style="text-align: right;">Page 82</p> <p>1 Q. And the next document is 2 titled "The Covidien annual incentive 3 plan for fiscal year 2009." 4 Do you see that? 5 A. I do. 6 Q. And is it your understanding 7 that this was the annual incentive plan 8 that applied to you at that time? 9 A. This appears to be more of a 10 global document than a specific document. 11 This was designed to help employees 12 understand. 13 I -- I don't -- let me 14 review it just to see where else it goes. 15 I see here it's not 16 specifics. They are not in there. It 17 talks about measured on sales growth, 18 operating income, and strategic focus 19 metrics. So this is -- this appears to 20 be a little bit more global in nature. 21 Q. But this was the annual 22 incentive plan in place at -- at that 23 time in 2009, correct? 24 A. Yes. Yes.</p>	<p style="text-align: right;">Page 84</p> <p>1 Q. Okay. So the NS goal was 2 net sales and the NM goal was net margin? 3 A. Correct. 4 Q. And the net sales goal came 5 in at 135.1 percent, and the net margin 6 goal came in at 163.7 percent, correct? 7 A. Correct. And I would -- to 8 put it into context, I wish I could look 9 at that to see was that driven on supply 10 disruptions from competitors that that 11 was driven up. Was that -- was that 12 driven on the fact that one of our 13 competitors went out of the market which 14 happened sometime while I was there. So 15 there are certain scenarios in which you 16 can have a growth. Or -- it doesn't tell 17 me as well what products were launched 18 during that time. This could be a new 19 product launch that occurred during that 20 time frame. So I don't know what's 21 behind the numbers. 22 Q. You just can see that there 23 was significant growth? 24 A. I can see there -- there was</p>
<p style="text-align: right;">Page 83</p> <p>1 Q. If you look at the next 2 document, it starts fiscal year '10, 3 equity talking points. Do you see that? 4 A. I do see that, yes. 5 Q. And if you turn two pages, 6 you'll see a page that begins "achieve 7 net sales and net margin objectives for 8 fiscal year '09." 9 Do you see that? 10 A. I do. 11 Q. And it states, "Fiscal year 12 '09 NS goal was \$80,127,760 and NS for 13 the year came in at \$108,199,828." 14 Do you see that? 15 A. I do see that, yes. 16 Q. And then it states, it's 17 1 -- in parentheses, 135.1 percent. Do 18 you see that? 19 A. I do see that. 20 Q. What was the NS goal? 21 A. I don't know what the -- 22 there is a net sales and a net margin. 23 So net sales and net margin are both 24 defined here.</p>	<p style="text-align: right;">Page 85</p> <p>1 growth, absolutely. 2 Q. And do you see the next -- 3 the next sentence says, "John Adams 4 summary." And it follows: "Victor 5 continually identified opportunities to 6 grow the business despite some of the 7 challenges. This includes maximizing oxy 8 5, 15 and 30 as select accounts and 9 delaying price decreases to maximize 10 sales in the face of growing 11 competition." 12 Do you see that? 13 A. I do see that, yes. 14 Q. And was Victor Borelli one 15 of your top sales reps? 16 A. I don't believe he was one 17 of the top sales reps, no. He was -- I 18 only had six. So if you're in the top 19 five, it doesn't do too -- too much to 20 differentiate you. 21 But I believe Dave Irwin was 22 top. And I believe Toby -- Toby Bane was 23 second. And that is often based on the 24 accounts in which you call on, so</p>

<p style="text-align: right;">Page 86</p> <p>1 hopefully that provides the context 2 you're looking for. 3 Q. Did those two individuals 4 also work on opioid products? 5 A. Yes. 6 Q. Okay. So your top sales 7 reps for the opioid products were those 8 two? 9 A. They didn't just do opioid 10 products. That was for the entire 11 Mallinckrodt generic portfolio which 12 included non-opioid -- non-opioids. 13 Q. Was the vast majority of 14 that portfolio opioid products? 15 A. The vast majority was opioid 16 products, correct, in -- as far as 17 dollars were concerned, yes. 18 Q. Roughly 80 to 90 percent? 19 A. I don't know that 20 specifically. 21 So I -- I do know that that 22 was one goal across this entire -- and I 23 don't know if -- if you want to -- to 24 review building effective teams, or a</p>	<p style="text-align: right;">Page 88</p> <p>1 your sales reps' targets each year while 2 you were at Mallinckrodt? 3 A. I don't remember 4 specifically if there was increases or 5 decreases. In all likelihood it would 6 vary depending upon launches, or if there 7 were discontinuations, those would also 8 factor. 9 Q. Do you recall generally that 10 the sales targets for opioid products 11 were increasing over the period of time 12 that you were at Mallinckrodt? 13 A. Generally they did increase. 14 As I mentioned, there were some products 15 that were launched and then discontinued 16 later, or there were significant 17 backorders which also led to targets 18 being increased but actuals not. 19 Q. And like you, your sales 20 reps' bonuses were contingent on their 21 ability to maximize sales of opioid and 22 other products; is that right? 23 MR. TSAI: Object to form. 24 Go ahead.</p>
<p style="text-align: right;">Page 87</p> <p>1 summary of -- of, you know. 2 Q. I don't think there's a 3 question pending, but we're not going to 4 review every line of this document, 5 because it's a half inch thick. 6 A. Okay. Sounds good. 7 Q. So the sales targets that we 8 just reviewed, do you know who set those 9 sales targets for you? 10 A. Not specifically, no. 11 Q. Do you know who communicated 12 them to you? 13 A. Not specifically. Certainly 14 I would sit down with Mike Gunning and go 15 through numbers. 16 Q. Anyone else? 17 A. No he'd be -- as my manager, 18 that's who would walk through objectives. 19 Q. And were you involved in 20 creating the targets for the people that 21 reported to you? 22 A. At the territory level, yes, 23 I was. 24 Q. And do you recall increasing</p>	<p style="text-align: right;">Page 89</p> <p>1 THE WITNESS: As we've seen 2 here, there are a number of 3 parameters in which the sales reps 4 are, and I was evaluated on. 5 Sales was one of those, but there 6 were others. 7 BY MS. BAIG: 8 Q. Would you agree that it was 9 one of the key metrics by which they were 10 evaluated? 11 A. I would agree that anyone in 12 sales would have a part -- a larger part 13 of their incentives based on that. 14 MR. TSAI: Aelish, we've 15 been going about an hour and a 16 half. Can we take a quick break? 17 MS. BAIG: Sure. How long 18 would you like? 19 MR. TSAI: Five minutes. 20 THE VIDEOGRAPHER: Going off 21 the record. The time is 10:46. 22 (Short break.) 23 THE VIDEOGRAPHER: We're 24 going back on record. Beginning</p>

<p style="text-align: right;">Page 90</p> <p>1 Media File Number 2. The time is 2 11:03. 3 MS. BAIG: We'll have this 4 marked as Exhibit 4. 5 (Document marked for 6 identification as Exhibit 7 Mallinckrodt-Adams-4.) 8 BY MS. BAIG: 9 Q. This document is 10 Bates-stamped Mallinckrodt 21 -- or 11 Mallinckrodt 10005426063 through 64. But 12 64 appears to be a multiple-page 13 document. 14 And it starts as an e-mail 15 dated July 28, 2005, from Mary Beth 16 Walton to you and a number of others. 17 Subject, updated generics marketing roles 18 and responsibilities. 19 Do you see this e-mail? 20 A. I do. I do see this. 21 Q. And who is Mary Beth Walton? 22 A. She was the administrative 23 assistant for Mike Gunning. 24 Q. And have you seen this</p>	<p style="text-align: right;">Page 92</p> <p>1 ER it's only 7 percent. Do you see that? 2 A. I see that, yes. 3 Q. And the two right-hand 4 columns on that page, the pink one and 5 the tan one, those are net sales and net 6 margin quota without oxy ER; is that 7 right? 8 A. Yes. 9 Q. And if you look at -- 10 A. It appears. 11 Q. If you look at the next 12 page, do you see there's a line -- a 13 column third from the right called "net 14 sales bonus"? 15 A. I do see that, yes. 16 Q. And fourth from the right, 17 it says "attainment." So does this 18 identify which sales reps for oxy ER were 19 meeting -- were meeting or attaining 20 their bonuses -- bonus potential? 21 A. I'm pausing on this because 22 I can't imagine -- I can't imagine an 23 e-mail going out to the entire group that 24 would indicate a bonus that would be paid</p>
<p style="text-align: right;">Page 91</p> <p>1 document before? 2 A. I don't recall. 3 Q. And does this appear to be a 4 bonus plan to you? 5 A. It does not. 6 Q. What does this appear to be 7 to you? 8 A. This appears to be budget 9 numbers by territory. But again I 10 haven't looked through all the details. 11 Q. And so if you look at the 12 first page of -- of the chart, the 13 colored chart. 14 A. Yes. 15 Q. Those are sales reps for oxy 16 ER in or about 2005; is that right? 17 A. Yes. 18 Q. And at the bottom of that 19 chart it shows net sales increases and 20 net margin increases with and without oxy 21 ER. Do you see that? 22 A. I do see that, yes. 23 Q. And the net sales increase 24 with oxy ER is 17 percent and without oxy</p>	<p style="text-align: right;">Page 93</p> <p>1 to individuals that would literally go 2 out to the entire team. So I can't 3 speculate on what NS bonus and NM bonus 4 are relative to the context here. 5 Q. So where it shows, for 6 example, for Steve Becker, was he an oxy 7 ER sales rep? 8 A. No. He was a national 9 account manager representing the entire 10 line. 11 Q. Including oxy ER? 12 A. Yes. However, I don't know 13 when oxy ER launched. And as you know -- 14 or as you may know, it was only on the 15 market for a short amount of time with a 16 specific amount of product. So again, 17 I'm not sure. 18 Q. Okay. Do you see where it 19 says, "Totals with oxy ER," and, "Totals 20 without oxy ER," and then it identifies 21 Steve Becker's name? 22 A. Are you back on the front 23 page? Which page are you on there? 24 Q. Page 2 of the chart.</p>

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1 A. Oh, gotcha. Yes, I do see  
2 that.  
3 Q. Okay. And there's numbers  
4 identifying his fiscal year '08 quota net  
5 sales.  
6 Do you see that?  
7 A. I do see that, yes.  
8 Q. And his December quota. Do  
9 you see that?  
10 A. I do see that, yes.  
11 Q. And then it shows his  
12 December net sales.  
13 Do you see that?  
14 A. I do see that.  
15 Q. And then it states in the  
16 first row for totals with oxy ER, his  
17 attainment was 75 percent.  
18 Do you see that?  
19 A. I do see that.  
20 Q. And then it goes on to state  
21 fiscal '08 quota net margin, and it  
22 identifies a figure, \$34.3 million.  
23 Do you see that?  
24 A. I do see that.

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1 Q. And a December quota figure.  
2 Do you see that?  
3 A. I do see that.  
4 Q. And then it lists  
5 attainment, 75 percent.  
6 Do you see that?  
7 A. I do see that, attainment of  
8 75 percent.  
9 Q. Okay. And then for net  
10 sales bonus and net margin bonus, it  
11 lists no number. And no total number.  
12 Do you see that?  
13 A. That is correct. I do see  
14 that has zero.  
15 Q. However, if you look further  
16 down to some of the other sales reps, you  
17 see that their attainment figures were  
18 over 100 percent and they have bonuses  
19 identified in the net sales bonus column  
20 and the net margin bonus column.  
21 Do you see that?  
22 A. I do see that.  
23 Q. Does that suggest to you  
24 that the people with higher -- the sales

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1 reps with higher attainment received  
2 higher bonuses?  
3 A. Again, I'll put out there  
4 this is a document that I don't think  
5 would be published to this entire group.  
6 But what I will say is product is  
7 allocated out to customers, and you may  
8 find yourself -- you, being the sales rep  
9 for a specific territory -- having more  
10 of the finite amount of product available  
11 allocated to your customers and not to  
12 others.  
13 So that attainment can be  
14 driven on a number of factors.  
15 Q. Sure. But all I'm asking  
16 you is does this document suggest to you  
17 that the higher your attainment, the  
18 higher your bonus?  
19 A. Yes. That is what it would  
20 suggest. You do have to hit a certain  
21 level of attainment in order to get one.  
22 Q. And these appear to be the  
23 figures for oxy ER at that time, based on  
24 the chart, correct?

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1 A. With and without.  
2 Q. Correct. So these sales  
3 reps' bonuses were contingent on their  
4 ability to maximize sales of opioid  
5 products, including oxy ER in this case;  
6 is that right?  
7 MR. TSAI: Object to form.  
8 Go ahead.  
9 THE WITNESS: This would  
10 suggest -- sorry. I guess a few  
11 different points.  
12 It wouldn't necessarily  
13 relate to just opioid products. I  
14 think the other thing it would  
15 suggest is their attainment to  
16 this number, there are a couple of  
17 factors. One, I mentioned, is  
18 allocation. Number two is, was  
19 the -- was the objective, was the  
20 goal correct.  
21 So the goal could have been  
22 set arbitrarily high for one  
23 person and arbitrarily low for  
24 another person.



<p style="text-align: right;">Page 98</p> <p>1 So the fact that there was</p> <p>2 an attainment level for a specific</p> <p>3 person, there are many variables</p> <p>4 that go into that.</p> <p>5 BY MS. BAIG:</p> <p>6 Q. Have you had any experience</p> <p>7 marketing or selling drugs to treat the</p> <p>8 addiction to opioids?</p> <p>9 A. I have not.</p> <p>10 Q. Did you understand while you</p> <p>11 were at Mallinckrodt that opioid sales</p> <p>12 were increasing exponentially across the</p> <p>13 country?</p> <p>14 A. Yes. IMS data would show</p> <p>15 what the -- what the growth or decline</p> <p>16 rate was by molecule. So you would be</p> <p>17 able to identify it from that, what the</p> <p>18 market growth and decline would be.</p> <p>19 Q. And you understood that it</p> <p>20 was growing exponentially across the</p> <p>21 country, correct, opioid sales?</p> <p>22 A. I would view the IMS data</p> <p>23 and understand that. I wouldn't</p> <p>24 necessarily look at that as, okay, this</p>	<p style="text-align: right;">Page 100</p> <p>1 of decline, I believe, on specific</p> <p>2 molecules. I don't recall which. But I</p> <p>3 believe there were times of decline. A</p> <p>4 lot of times that was driven by -- it was</p> <p>5 driven by supply disruption.</p> <p>6 Q. So you had no understanding</p> <p>7 when you were at Mallinckrodt that</p> <p>8 generally speaking opioid sales were</p> <p>9 growing nationally. You didn't</p> <p>10 understand that?</p> <p>11 A. No, I understood that there</p> <p>12 were products that grow -- that did</p> <p>13 accelerate, that did grow. And there --</p> <p>14 I understood at times there were ones</p> <p>15 that declined. You can look at any</p> <p>16 period in time and derive various</p> <p>17 conclusions.</p> <p>18 But yes, I do agree that</p> <p>19 there was growth in opioids across the</p> <p>20 market and growth in overall dispensed</p> <p>21 products, non-opioids as well, because of</p> <p>22 the aging population, et cetera.</p> <p>23 Prescriptions and particularly conversion</p> <p>24 to generics of non-opioids was growing.</p>
<p style="text-align: right;">Page 99</p> <p>1 product is growing, and this one is</p> <p>2 declining as an indication of what was</p> <p>3 sold into the market. It's driven by the</p> <p>4 demand that physicians are writing</p> <p>5 prescriptions for patients, is what's</p> <p>6 driving demand.</p> <p>7 Q. But you --</p> <p>8 A. So it's not --</p> <p>9 Q. -- understood that demand --</p> <p>10 A. No, I -- but I -- sorry.</p> <p>11 But IMS data is sales out into the</p> <p>12 outlets. And so that would be the</p> <p>13 indication of, yes, I could see that it</p> <p>14 was either growing or declining. But</p> <p>15 again, that's driven by prescriptions,</p> <p>16 which we don't drive prescriptions.</p> <p>17 Q. But my question is not</p> <p>18 whether you could see whether it was</p> <p>19 growing or declining. My question is</p> <p>20 whether you understood that it was in</p> <p>21 fact growing during the period that you</p> <p>22 were there.</p> <p>23 A. There were years of decline</p> <p>24 as well regarding -- or at least periods</p>	<p style="text-align: right;">Page 101</p> <p>1 Q. Were you aware that the</p> <p>2 growth for the product oxy 15 and oxy 30</p> <p>3 was very significant during the period --</p> <p>4 nationally during the period that you</p> <p>5 were at Mallinckrodt?</p> <p>6 A. I understand that they grew.</p> <p>7 What I don't know is, was that driven</p> <p>8 because of oxy ER being on and off the</p> <p>9 market, and details surrounding that I</p> <p>10 just don't recall.</p> <p>11 Q. So you don't understand why,</p> <p>12 but -- or you didn't understand why, but</p> <p>13 you understood that oxy 15 and oxy 30</p> <p>14 were growing significantly in terms of</p> <p>15 sales across the country; is that right?</p> <p>16 A. I don't -- I don't recall</p> <p>17 the why. Again, the demand is not</p> <p>18 generated by a generic manufacturer. The</p> <p>19 demand is generated by prescriptions</p> <p>20 writing -- being written by doctors.</p> <p>21 Q. And did you oversee sales of</p> <p>22 any branded opioid products?</p> <p>23 A. I did not.</p> <p>24 Q. Did you have any insight</p>



<p style="text-align: right;">Page 102</p> <p>1 into the sales of the branded opioid 2 products at Mallinckrodt? 3 A. I don't recall. 4 Q. You don't recall reviewing 5 reports for branded opioid products at 6 Mallinckrodt? 7 A. I don't recall, no. 8 Q. You don't recall one way or 9 the other or you don't recall ever having 10 done that? 11 A. I don't recall having done 12 that. And to add further, I didn't 13 recall that the branded side had opioids. 14 I'm trying to think if -- I don't recall. 15 If those were even on the market while I 16 was there. And again, I just don't 17 recall them having any opioids. 18 Q. Do you recall Exalgo being 19 part of Mallinckrodt portfolio while you 20 were there? 21 A. I recall the trade name. I 22 don't know if -- 23 Q. How about Xartemis? 24 A. I don't know if it was while</p>	<p style="text-align: right;">Page 104</p> <p>1 manufactured in the U.S. cannot go 2 outside the U.S. 3 That's my understanding of 4 it. So what happens outside of 5 the U.S. in this regard, I don't 6 recall any insights there. 7 BY MS. BAIG: 8 Q. You don't recall 9 Mallinckrodt touting itself as a world 10 leader in the manufacture and 11 distribution of opioid analgesics? 12 A. No. I don't recall that. 13 Q. Do you recall which generic 14 opioids were part of Mallinckrodt's 15 portfolio while you were there? 16 A. So hydrocodone -- well, so, 17 hydrocodone, oxycodone, oxycodone with 18 acetaminophen, morphine. Oxy ER for a 19 finite amount of time. 20 Q. Was fentanyl also a 21 Mallinckrodt product? 22 A. Launched that sometime near 23 the end of my tenure there. 24 (Document marked for</p>
<p style="text-align: right;">Page 103</p> <p>1 I was there though. I just know the 2 name. 3 Q. Okay. How about Xartemis? 4 A. That name is not familiar to 5 me. Just don't recall the name. 6 Q. Did you understand while you 7 were at Mallinckrodt, that Mallinckrodt 8 was a world leader in the manufacture and 9 distribution of opioid painkillers? 10 A. I recognize that yes 11 Mallinckrodt had a key position in 12 manufacturing raw material and finished 13 dosage forms. 14 Q. Not just a key position, but 15 a world leader, did you understand that 16 at the time? 17 MR. TSAI: Object to form. 18 Go ahead. 19 THE WITNESS: I don't have 20 vision to outside the U.S. And 21 from an opioid perspective, my 22 understanding is products in the 23 U.S. have to be manufactured in 24 the U.S., and products</p>	<p style="text-align: right;">Page 105</p> <p>1 identification as Exhibit 2 Mallinckrodt-Adams-5.) 3 BY MS. BAIG: 4 Q. I'm handing you what's been 5 marked as Exhibit 5. 6 This document starts as an 7 e-mail from Phyllis Fischer dated May 17, 8 2005. Bates-stamped Mallinckrodt 9 0007917913 through 7925. 10 And its subject line is PCL 11 library, pharmaceutical industry 12 newsletter. Do you see that? 13 A. I do see that. 14 Q. What is the PCL library? 15 A. I'm not certain. I don't -- 16 I don't recall any PCL library or -- if 17 it's a virtual or an actual. I don't 18 know. I just don't recall. 19 Q. Do you recall a pharmacy -- 20 pharmaceutical industry newsletter? 21 A. I don't recall. 22 Q. You don't recall receiving 23 those types of newsletters on a regular 24 basis?</p>

<p style="text-align: right;">Page 106</p> <p>1 A. I do not. It doesn't ring a 2 bell to me.</p> <p>3 Q. Do you ever -- ever recall 4 learning that OxyContin was -- was a drug 5 that had a high potential for abuse?</p> <p>6 MR. TSAI: Object to form. 7 Go ahead.</p> <p>8 THE WITNESS: As far as 9 OxyContin, the branded drug by 10 Purdue, I am aware of that now as 11 I look through and hear things in 12 the press.</p> <p>13 At the time, I'm trying to 14 think of how much controversy 15 there was. But ultimately I'm not 16 sure what I would put that into 17 context. But oxycodone -- or 18 OxyContin written by doctors as a 19 Purdue product, it makes sense 20 that there would be -- what did 21 you say?</p> <p>22 BY MS. BAIG: 23 Q. High potential for abuse. 24 A. It makes sense, again, I</p>	<p style="text-align: right;">Page 108</p> <p>1 Q. In the middle of the page 2 there's a section titled -- in this 3 newsletter titled, "Pain patients take 4 fewer than half of OxyContin scripts as 5 directed."</p> <p>6 Do you see that?</p> <p>7 A. I see the heading, yes.</p> <p>8 Q. And it goes on to state that 9 "just 45 percent of prescriptions for the 10 opiate OxyContin (oxycodone HC) 11 controlled-release are taken as directed 12 by patients being treated for 13 nonmalignant pain, according to a study 14 of urine samples from approximately 15 5 percent of the nation's outpatient pain 16 clinics."</p> <p>17 Do you see that?</p> <p>18 A. I see that paragraph, yes.</p> <p>19 Q. Do you recall ever learning 20 a statistic on par with 45 percent of 21 OxyContin and oxycodone being -- 22 A. I -- I -- no. 23 Q. -- being -- hang on. Hang 24 on.</p>
<p style="text-align: right;">Page 107</p> <p>1 can't put a timeline into that, but based 2 on kind of everything that I'm reading 3 and all of that.</p> <p>4 Q. Do you recall learning that 5 while you were at Mallinckrodt or having 6 discussions with folks at Mallinckrodt 7 about the high level of abuse for opioid 8 products generally?</p> <p>9 A. I recall components of that 10 because there was an initiative to 11 make -- there was -- abuse resistant 12 technology was something that was in 13 development. So I recall in that 14 context.</p> <p>15 Q. Okay. Do you recall it in 16 any other context?</p> <p>17 A. I don't recall.</p> <p>18 Q. So if you turn to the fourth 19 page of this 2005 document. Do you see 20 that there's a section titled --</p> <p>21 A. I'm sorry, what is the 22 number on the bottom? Sorry.</p> <p>23 Q. It ends in 916. 24 A. Okay.</p>	<p style="text-align: right;">Page 109</p> <p>1 A. Okay.</p> <p>2 Q. -- not being taken as 3 directed?</p> <p>4 A. I don't recall that. And -- 5 and truthfully, what it was being 6 prescribed for was obviously pain. But 7 beyond, I don't know what a treatment 8 profile would be for a patient, if they 9 are supposed to take -- I don't even know 10 the strengths of -- of oxy ER, but -- if 11 they are supposed to take one or two or 12 three a day, I don't know.</p> <p>13 Q. And do you see it goes on to 14 state that "fully 40 percent of the drug 15 was recycled among other patients being 16 treated for pain in 264 clinics whose 17 combined case loads exceeded 33,000 18 patients."</p> <p>19 Do you see that?</p> <p>20 A. I see that, yes.</p> <p>21 Q. And then the next paragraph 22 states, "Another 15 percent of OxyContin 23 prescriptions apparently were diverted to 24 the black market."</p>

<p style="text-align: right;">Page 110</p> <p>1 Do you see that?</p> <p>2 A. I do see that.</p> <p>3 Q. Do you recall having any</p> <p>4 discussions at Mallinckrodt about figures</p> <p>5 such as these and the potential for</p> <p>6 OxyContin and oxycodone to be abused?</p> <p>7 A. I -- I recall discussions</p> <p>8 about a scenario where, like a -- Watson</p> <p>9 had a truck that was hijacked that was</p> <p>10 filled with some sort of opioid. I don't</p> <p>11 know exactly which one. So I recall that</p> <p>12 scenario.</p> <p>13 But as far as looking at</p> <p>14 diverted, and if there was anything --</p> <p>15 this is outside of my purview as far as</p> <p>16 kind of who would investigate. I think</p> <p>17 compliance is probably better suited for</p> <p>18 that scenario, if they would go and find</p> <p>19 the situation. Or be made aware of is</p> <p>20 probably better.</p> <p>21 Q. Apart from the isolated</p> <p>22 incident of the theft with respect to</p> <p>23 the -- I think it was a UPS truck --</p> <p>24 A. I don't know. I don't know</p>	<p style="text-align: right;">Page 112</p> <p>1 in general, I can tell you that, you</p> <p>2 know, we worked and had appropriate</p> <p>3 channels in which we sold through, and if</p> <p>4 there was any deviation, obviously our</p> <p>5 compliance team would certainly</p> <p>6 investigate those. I don't remember a</p> <p>7 lot of cases where that would happen</p> <p>8 truthfully.</p> <p>9 Q. And the generic for</p> <p>10 OxyContin was oxycodone HC, right?</p> <p>11 A. I'm sorry?</p> <p>12 Q. The generic for OxyContin</p> <p>13 was oxycodone HC, right?</p> <p>14 A. No, that is not correct.</p> <p>15 The generic for OxyContin is oxy ER.</p> <p>16 Q. Okay.</p> <p>17 A. Yes.</p> <p>18 Q. Do you see here where it</p> <p>19 says, "Just 45 percent of prescriptions</p> <p>20 for opioid OxyContin" and then in parens</p> <p>21 it says oxycodone HC. Do you know what</p> <p>22 oxycodone HC stands for?</p> <p>23 A. Oxycodone hydrochloride.</p> <p>24 But as far as -- those products -- if a</p>
<p style="text-align: right;">Page 111</p> <p>1 exactly.</p> <p>2 Q. Do you recall any other</p> <p>3 discussions at Mallinckrodt about the</p> <p>4 high potential for diversion of opioids?</p> <p>5 A. I know that there were</p> <p>6 always controls in place that were</p> <p>7 established. I remember at a UPS</p> <p>8 facility when some product went missing,</p> <p>9 that there was -- and I don't know if it</p> <p>10 was our specific product or someone</p> <p>11 else's, but that investigations down to</p> <p>12 the camera level would be -- would be</p> <p>13 there to try and isolate where the</p> <p>14 product may have -- who may have stolen</p> <p>15 it, if that was the case or why it was</p> <p>16 missing. I do recall those</p> <p>17 investigations taking place through the</p> <p>18 supply chain.</p> <p>19 Q. But you don't recall stats</p> <p>20 such as these, as at 45 percent or</p> <p>21 40 percent level in terms of diversion or</p> <p>22 discussing those at Mallinckrodt?</p> <p>23 A. Related to OxyContin,</p> <p>24 absolutely not. And as far as diversion</p>	<p style="text-align: right;">Page 113</p> <p>1 doctor writes a prescription for</p> <p>2 OxyContin, that product cannot be</p> <p>3 substituted by the pharmacist for oxy IR.</p> <p>4 That's an illegal substitution. They</p> <p>5 would have to call the doctor. It's</p> <p>6 considered a different dosage form</p> <p>7 because of how it's delivered. Extended</p> <p>8 release versus immediate release cannot</p> <p>9 be substituted without a call to the</p> <p>10 doctor.</p> <p>11 MS. BAIG: Let's have this</p> <p>12 document marked as Exhibit 6,</p> <p>13 please.</p> <p>14 (Document marked for</p> <p>15 identification as Exhibit</p> <p>16 Mallinckrodt-Adams-6.)</p> <p>17 BY MS. BAIG:</p> <p>18 Q. This document starts as an</p> <p>19 e-mail from LouAnn Behlmann to you and</p> <p>20 others. It's Bates-stamped Mallinckrodt</p> <p>21 0004839173 through 9174; 9174 is a</p> <p>22 multipage document and it's dated</p> <p>23 January 23, 2007.</p> <p>24 It states in the first line</p>

<p style="text-align: right;">Page 114</p> <p>1 of the e-mail, "Attached is the updated 2 master EOE generic product list." 3 Do you see that? 4 A. I do see that. 5 Q. What's EOE stand for? 6 A. Let me look through this and 7 see if it triggers anything. Off the 8 top, I don't know. 9 I believe this would be 10 order entry numbers. So when we sell to 11 a wholesaler or, let's say, Walgreens, 12 they would have a number that they would 13 assign for a specific product. So for 14 us, we have an NDC number on our product. 15 That NDC number is not how a pharmacy 16 would order from a wholesaler. They 17 would look at what is this item number. 18 So similar going to Best 19 Buy, and you see SKU number, this is 20 assigned by the customer for their 21 patient purview. I don't know what EOE 22 stands for truthfully. 23 Q. Okay. And this was 24 Mallinckrodt's generic product list as of</p>	<p style="text-align: right;">Page 116</p> <p>1 that was so small that it wasn't on my 2 radar. 3 Q. Do you recall that methadone 4 sales were increasing -- 5 A. No. 6 Q. -- significantly during the 7 time that you were at Mallinckrodt? 8 A. I don't recall. 9 Q. You didn't have a general 10 awareness of that while you were there? 11 A. I can't speak to when I was 12 there. I can only say right now that I 13 do not recall it at all. 14 Q. Do you recall having any 15 discussions with anybody at Mallinckrodt 16 about the simultaneous sale of opioid 17 products and methadone and the 18 simultaneous increasing on both sides? 19 A. I don't remember any 20 conversations like that. I just don't 21 recall. 22 Q. Do you recall that 23 Mallinckrodt's opioid products accounted 24 for more than 90 percent of total sales?</p>
<p style="text-align: right;">Page 115</p> <p>1 2007? 2 A. It appears -- it appears 3 that way. 4 Q. Do you see that, on the 5 second page of the product list, there's 6 a product called methadone listed? 7 A. I do see that. 8 Q. Do you know what methadone 9 is used for? 10 A. I don't know what the exact 11 indication is. But it's something to do 12 with addiction treatment. 13 Q. So does this refresh your 14 recollection that you worked on products 15 that were designed to treat addiction of 16 opioids? 17 A. I know we had a sales team 18 that called specifically on methadone 19 clinics. That was what the lion's share 20 of methadone was used for, is my 21 understanding. So, yeah, I didn't recall 22 that this was part of the portfolio. I 23 don't know how much this represents 24 relative to sales. It may have been one</p>	<p style="text-align: right;">Page 117</p> <p>1 A. I couldn't have told you a 2 percentage, so I don't recall what the 3 percentage would be. 4 Q. Do you recall it being high? 5 A. I do recall it being high, 6 yes. 7 Q. Do you recall that methadone 8 was also among the company's top 9 products? 10 A. I don't recall, and it would 11 surprise me. But again, I only had 12 vision to the retail segment. There is 13 the methadone clinic -- at least I don't 14 recall any sort of vision to that other 15 segment and the sales affiliated with it. 16 (Document marked for 17 identification as Exhibit 18 Mallinckrodt-Adams-7.) 19 BY MS. BAIG: 20 Q. I'll have this document 21 marked as Exhibit 7. 22 A. Thank you. 23 Q. This is a document that 24 starts as an e-mail from Steven Becker</p>

<p style="text-align: right;">Page 118</p> <p>1 dated October 17, 2008, Bates-stamped  2 Mallinckrodt 0006339059 through 9065.  3 And if you turn to the  4 second page. The title is "Covidien  5 Mallinckrodt Pharmaceuticals." And  6 there's a reference to HD Smith executive  7 visit dated October 16, 2008.  8 Do you see that?  9 A. I do.  10 Q. And do you recall receiving  11 this document while you were at  12 Mallinckrodt?  13 A. I don't.  14 Q. Do you recall an executive  15 visit with HD Smith at or around October  16 of 2008?  17 A. I don't recall. Executive  18 visits occurred multiple times, not  19 specifically HD Smith, but just in  20 general. So I don't recall.  21 Q. I see. And would you  22 participate in executive visits?  23 A. Yes, I would on occasion.  24 Q. Okay. And would you</p>	<p style="text-align: right;">Page 120</p> <p>1 Do you see that?  2 A. I do see that.  3 Q. And 8.9 billion in annual  4 sales.  5 Do you see that?  6 A. I do see that.  7 Q. Do you know if that  8 8.9 billion is global or limited to the  9 U.S.?  10 A. I don't -- I don't know.  11 But since it references 57 countries,  12 I'll assume here, but again I didn't know  13 or I don't know. Since it references  14 that, I would assume it's global.  15 Q. And if you -- if you -- if  16 you move three pages in, you'll see a  17 document titled -- or a page titled "Five  18 Growth Platforms."  19 A. I see that, yes.  20 Q. And under -- do you see on  21 the left-hand side it identifies  22 generics?  23 A. I do see that.  24 Q. And it states, "Number one</p>
<p style="text-align: right;">Page 119</p> <p>1 typically create PowerPoints like the one  2 included here, or would Mallinckrodt  3 create PowerPoints like the one included  4 here for executive visits?  5 A. There would be PowerPoint  6 presentations. Whether or not sales and  7 marketing created those, I can't speak to  8 that on a broad spectrum.  9 Q. Do you have any reason to  10 doubt that this was a PowerPoint created  11 for the HD Smith executive visit  12 October 16, 2008?  13 A. I don't have any doubt based  14 on this. I do find it somewhat  15 interesting to see sales from the dosage  16 and API group on Page 7, as I'm looking  17 at this. So from my perspective, that's  18 pooling data from other areas, is my  19 assumption.  20 Q. And it states here on Page  21 three of the PowerPoint, "Understanding  22 the organization." It identifies  23 Covidien as having 43,000 employees in 57  24 countries.</p>	<p style="text-align: right;">Page 121</p> <p>1 pain med"?)  2 A. I do see that.  3 Q. Was that because pain  4 medication was Mallinckrodt's number one  5 generic category of drugs at the time?  6 A. So I know -- obviously this,  7 I wasn't included in this e-mail chain.  8 As far as kind of speculating on this,  9 this appears to be number one pain med as  10 if it may be referencing hydrocodone,  11 because that was, I think, as we  12 discussed earlier, the number one product  13 in the U.S. per IMS.  14 Q. And it states here that  15 Mallinckrodt was number six in terms of  16 generics in the U.S. Is that -- is your  17 understanding of that that you were  18 number six in terms of generic market  19 share?  20 A. Yeah, that number, if I  21 recall fluctuated, and it's based on IMS  22 data, number of -- number of pills if I'm  23 not mistaken, or extended -- it was  24 called extended units, is the way IMS</p>



<p style="text-align: right;">Page 122</p> <p>1 defined it.</p> <p>2 Q. And do you see on the next</p> <p>3 page in the pie chart that shows 2007</p> <p>4 sales by product type?</p> <p>5 A. I do see the pie, yes.</p> <p>6 Q. The majority of the drugs</p> <p>7 are controlled drugs?</p> <p>8 A. Yes. It appears to be</p> <p>9 about, I would estimate, 65/35, something</p> <p>10 like that, percent.</p> <p>11 Q. And just to the right of</p> <p>12 that it states, "Areas of focus,</p> <p>13 controlled substances and pain</p> <p>14 management."</p> <p>15 Do you see that?</p> <p>16 A. Yes. Sorry.</p> <p>17 Q. And that was one of</p> <p>18 Mallinckrodt's key areas of focus at the</p> <p>19 time. Would you agree?</p> <p>20 A. Yes, it was at the time.</p> <p>21 Q. And if you flip two more</p> <p>22 pages, you'll see Covidien Mallinckrodt</p> <p>23 organizational chart. And it has you</p> <p>24 reporting to Mike Gunning who was</p>	<p style="text-align: right;">Page 124</p> <p>1 Q. And do you see, flipping two</p> <p>2 more pages, that -- that HD Smith was</p> <p>3 part of Mallinckrodt's volume incentive</p> <p>4 program?</p> <p>5 A. I'm sorry, I just noticed</p> <p>6 that units grew quite a bit less than did</p> <p>7 dollars. So it looks like there was an</p> <p>8 increase in average selling price per</p> <p>9 dose on the last slide. So, I'm sorry, I</p> <p>10 was still reflecting since again, I don't</p> <p>11 know -- this wasn't to me, so I'm just --</p> <p>12 I'm still catching up.</p> <p>13 Q. So I think my question to</p> <p>14 you on that was whether sales increased</p> <p>15 more than three times from 2007 to 2008.</p> <p>16 And I'm looking at the first -- the first</p> <p>17 row.</p> <p>18 A. Dollar sales did, but unit</p> <p>19 sales did not.</p> <p>20 Q. For which drug, do you know?</p> <p>21 A. I don't know. This -- this</p> <p>22 would be a -- I assume a full list of the</p> <p>23 products that Mallinckrodt sold to HD</p> <p>24 Smith from the retail segment.</p>
<p style="text-align: right;">Page 123</p> <p>1 reporting to Chuck Bramlage who was</p> <p>2 reporting to Tim Wright.</p> <p>3 Do you see that?</p> <p>4 A. I do see that.</p> <p>5 Q. Is it your understanding</p> <p>6 that that is accurate for the time?</p> <p>7 A. Yes. As I see this now,</p> <p>8 yes.</p> <p>9 Q. And if you skip two more</p> <p>10 pages you'll see HD Smith 2007 versus</p> <p>11 2008 net sales.</p> <p>12 Do you see that?</p> <p>13 A. I do see that, yes.</p> <p>14 Q. Do you recall HD Smith being</p> <p>15 one of Mallinckrodt's key customers?</p> <p>16 A. I recall them being a</p> <p>17 customer. But I -- I don't believe they</p> <p>18 would fall into a top ten.</p> <p>19 Q. Do you see that their sales</p> <p>20 from '07 to '08 more than tripled?</p> <p>21 A. I do see that. I don't know</p> <p>22 what drove that, if it was opioids or</p> <p>23 non-opioids or if it was supply</p> <p>24 disruptions. I just don't know.</p>	<p style="text-align: right;">Page 125</p> <p>1 Q. I think we're going to get</p> <p>2 to the products in a few pages.</p> <p>3 A. Okay.</p> <p>4 And I'm sorry, you had a</p> <p>5 follow-up question or another question,</p> <p>6 and I don't know which page you went to.</p> <p>7 I apologize.</p> <p>8 Q. Two more pages later.</p> <p>9 A. Okay.</p> <p>10 Q. You'll get to HD</p> <p>11 Smith-Mallinckrodt volume incentive</p> <p>12 program.</p> <p>13 A. Okay.</p> <p>14 Q. Was HD Smith part of</p> <p>15 Mallinckrodt's volume incentive program?</p> <p>16 A. I don't recall.</p> <p>17 Q. Does this suggest to you</p> <p>18 that they might have been?</p> <p>19 A. This does not suggest it --</p> <p>20 that, no. It doesn't suggest it one way</p> <p>21 or the other.</p> <p>22 Q. Okay. Did Mallinckrodt have</p> <p>23 a volume incentive program?</p> <p>24 A. Yes.</p>



<p style="text-align: right;">Page 126</p> <p>1 Q. And what is your 2 understanding of how that program worked? 3 A. So, basically, that program 4 worked where you would look at historical 5 sales. So what was the -- what were -- 6 what was the purchasing that they made 7 from Mallinckrodt. And you would use 8 that, and you would tie in what is the 9 market growth as driven by demand, and 10 you would layer on top of that any new 11 products that may be introduced in the 12 market. You would layer in market 13 declines on the molecules. And you would 14 estimate what the dollar sales would be. 15 Upon doing that, you would 16 say, if your dollar sales are, let's just 17 say \$2 million today, and you build them 18 to \$4 million, you'll get an extra 19 1 percent rebate. You build them to 20 6 million, you get an extra 2 percent 21 rebate. Build them to 10 million, you'll 22 get an extra 3 percent rebate. That's 23 just an example. 24 Q. And if you turn to the next</p>	<p style="text-align: right;">Page 128</p> <p>1 Q. So HD Smith -- so we've 2 established HD Smith had a volume 3 incentive program. 4 And can you look at the 5 page -- if you look in the bottom 6 left-hand corner there's a page 7 Number 16? 8 A. I see, yes. 9 Q. And it says key product 10 drivers? 11 A. Yes, I see that. 12 Q. And it appears to identify 13 HD Smith products for which Mallinckrodt 14 was supplying? 15 Do you see that? 16 A. I do see that, yes. 17 Q. And is that your read of 18 what this chart shows? 19 A. Yes, it is. 20 Q. Okay. And if you go to the 21 next page, you see the top ten 22 Mallinckrodt products? 23 A. I do see that, yes. 24 Q. And can you see that all of</p>
<p style="text-align: right;">Page 127</p> <p>1 page, you see key product drivers. 2 A. I'm sorry, what page are you 3 on? I don't see it. 4 Q. The one ending 060. 5 A. Okay. Gotcha. I wasn't on 6 that page. 7 Okay. I didn't realize, 8 when you said, did they have the volume 9 incentive, I wasn't on that page. I was 10 two pages before that. So that's why I 11 said I couldn't derive that they had a 12 volume incentive program. So I was on 13 page ending in 9060. 14 Now turning to -- sorry, 15 whatever page this is, I now know that 16 you were referencing this. So yes, I can 17 confirm that they had a volume incentive 18 program. 19 Q. Okay. 20 A. So I was on the wrong page 21 when you asked that question. 22 Q. Understood. 23 A. Okay. So, sorry, now we're 24 on --</p>	<p style="text-align: right;">Page 129</p> <p>1 these products are opioid products? 2 A. Yes, I do see that. 3 Q. And does this refresh your 4 recollection that methadone was among 5 Mallinckrodt's top ten products? 6 A. It does not. I mean I -- 7 like I said before, I don't recall that 8 it would be at that level. And as I 9 stated before, that would surprise me 10 that it was a top ten product. 11 Looking at this in 12 isolation, I still can't derive that. 13 This is what HD Smith had as their -- one 14 of their top ten products. So again I 15 can't speak to the -- how it fit into our 16 overall portfolio. 17 Q. I see. So for HD Smith 18 though, methadone was among the top ten 19 Mallinckrodt products, correct? 20 A. That's -- that's what -- 21 that is what is in the presentation, 22 correct. 23 Q. And it shows here that for 24 example, the first -- the first row for</p>

<p style="text-align: right;">Page 130</p> <p>1 oxycodone HCL, 30 milligrams, do you see 2 that?</p> <p>3 A. I do.</p> <p>4 Q. And the percent increase 5 from 2007 to 2008 is 37,000 percent, 6 about 37,000 percent. Do you see that?</p> <p>7 A. I do see that. So what that 8 would indicate to me, I don't know when 9 oxy 30-milligram was launched. But it 10 may have been launched with one month in 11 the 2007 time frame and 2008 showed a 12 full year. So I don't know what the 13 comparison is.</p> <p>14 And the other component of 15 this is oxy 30 may have been a product 16 that used to be an Ethex product, 17 supplied product, and that Mallinckrodt 18 earned that award when Ethex had supply 19 issues or we just earned it on the merits 20 of relationship or price. And so it was 21 a conversion from their product to our 22 product. It doesn't indicate that it's 23 an increase in demand as driven by 24 physician prescribing or any other</p>	<p style="text-align: right;">Page 132</p> <p>1 hydrocodone APAP 10/500 tabs increased at 2 136.8 percent from 2007 to 2008?</p> <p>3 Do you see that?</p> <p>4 A. I do see that. And I'll 5 reiterate the -- the same, that I don't 6 know what drove that, if that was a 7 transition from another company to us as 8 a primary supplier. I don't know.</p> <p>9 Q. And what's 10/500 indicate?</p> <p>10 A. That is 10 milligrams of 11 hydrocodone and 500 milligrams of 12 acetaminophen.</p> <p>13 Q. Okay. And just beneath the 14 chart it states, "The top ten products 15 account for 91.3 percent of total net 16 sales volume."</p> <p>17 Do you see that?</p> <p>18 A. I do see that.</p> <p>19 Q. The next page is relatively 20 blank, but has a heading entitled 21 "Mallinckrodt RiskMAPs." Do you know 22 what RiskMAPs are?</p> <p>23 A. I remember the -- I remember 24 the term. I don't remember the concept.</p>
<p style="text-align: right;">Page 131</p> <p>1 reason.</p> <p>2 Q. It doesn't necessarily 3 indicate that, but as you sit here right 4 now, do you recall why it increased 5 specifically 37,000 percent from one year 6 to the next?</p> <p>7 A. I -- I do not.</p> <p>8 Q. Okay. And do you see that 9 the methadone 10-milligram tabs increased 10 about 238 percent from 2007 to 2008?</p> <p>11 A. I'll reiterate. I see that 12 it does. But I'll reiterate, I don't 13 know what drove that. If it was a 14 situation where someone else had that 15 product and we earned the award 16 throughout there, I don't know.</p> <p>17 Q. And do you see that the oxy 18 APAP product increased from 2007 to 2008 19 at a rate of 374.6 percent?</p> <p>20 A. I do see that. And I'll 21 just reiterate what I said before, I 22 don't know what was the key driver behind 23 that.</p> <p>24 Q. And do you see that the</p>	<p style="text-align: right;">Page 133</p> <p>1 Q. You don't remember it at 2 all?</p> <p>3 A. No, I don't recall the 4 concept of it, but I -- like I said, I 5 remember the term.</p> <p>6 Q. And the last three pages of 7 the document. Do you see it identifies 8 HD Smith net sales and lists 2007 totals, 9 2008 totals, the change in the percentage 10 and the forecast?</p> <p>11 A. Sorry, you jumped through -- 12 you're faster than me. The third from 13 the back, is that what you --</p> <p>14 Q. Yeah, the last three pages 15 are basically the same. Or there's a 16 chart that covers the last few pages. Do 17 you see that?</p> <p>18 I'm looking at the very end, 19 the one you're holding.</p> <p>20 A. Okay. Great. I just wanted 21 to make sure. They all look the same so 22 I wasn't sure. Okay. I'm sorry.</p> <p>23 Q. And the left -- the 24 left-hand column identifies HD Smith net</p>

<p style="text-align: right;">Page 134</p> <p>1 sales. Do you see that?</p> <p>2 A. I do see that, yes.</p> <p>3 Q. And then there's a column of</p> <p>4 2007 totals, 2008 totals, a change, a</p> <p>5 percent, and a forecast. Do you see</p> <p>6 that?</p> <p>7 A. I do see that, yes.</p> <p>8 Q. Does it suggest to you that</p> <p>9 these are the figures that back up the</p> <p>10 data that was in the PowerPoint we just</p> <p>11 went through?</p> <p>12 A. This does look like the</p> <p>13 supporting data for the dollars.</p> <p>14 Interesting, it does not include the</p> <p>15 average selling price.</p> <p>16 MS. BAIG: We'll have this</p> <p>17 document marked as Exhibit 8.</p> <p>18 (Document marked for</p> <p>19 identification as Exhibit</p> <p>20 Mallinckrodt-Adams-8.)</p> <p>21 BY MS. BAIG:</p> <p>22 Q. This document begins as an</p> <p>23 e-mail from Ginger Collier to you and</p> <p>24 others. It's dated November 20, 2009.</p>	<p style="text-align: right;">Page 136</p> <p>1 Q. All the --</p> <p>2 A. I would assume, but I -- no,</p> <p>3 I can't make an assumption on that.</p> <p>4 Q. Do you recall seeing such</p> <p>5 documents created, business review type</p> <p>6 documents?</p> <p>7 A. I do recall business review</p> <p>8 documents.</p> <p>9 Q. Okay. And this one is</p> <p>10 specific to specialty generics?</p> <p>11 A. I -- so specialty generics,</p> <p>12 I didn't recall this but it did take on a</p> <p>13 new name, not just generics. So I think</p> <p>14 that was part of a, not a rebranding of</p> <p>15 the -- of the division of generics, but</p> <p>16 that's the best way I can categorize it.</p> <p>17 I didn't recall that it occurred until I</p> <p>18 see this title.</p> <p>19 Q. But this was a review of the</p> <p>20 generics department, which you were</p> <p>21 overseeing; is that right?</p> <p>22 A. I only oversaw the retail</p> <p>23 segment. So this looks like it may go</p> <p>24 beyond that since Bob Lesnak is on there.</p>
<p style="text-align: right;">Page 135</p> <p>1 It's Bates-stamped Mallinckrodt</p> <p>2 0006305472 through 5474.</p> <p>3 And again, if you -- if you</p> <p>4 skip to the first page of the PowerPoint,</p> <p>5 it's titled "Covidien Pharmaceuticals,</p> <p>6 specialty generics business review." It</p> <p>7 has your name on the front page along</p> <p>8 with Ginger Collier and Bob Lesnak, dated</p> <p>9 January 6, 2010.</p> <p>10 Do you see that?</p> <p>11 A. I do.</p> <p>12 Q. Okay. And do you recall</p> <p>13 receiving this document?</p> <p>14 A. I do not.</p> <p>15 Q. Did you help -- do you</p> <p>16 recall helping create this document?</p> <p>17 A. I do not.</p> <p>18 Q. Was this the type of</p> <p>19 document -- and this looks, at least in</p> <p>20 form, to be similar to the one that we</p> <p>21 just looked at. Would you agree?</p> <p>22 A. I do. I do agree at least</p> <p>23 based on the first two pages. What I'm</p> <p>24 trying --</p>	<p style="text-align: right;">Page 137</p> <p>1 Q. And Bob Lesnak is listed as</p> <p>2 VP of sales, addiction treatment?</p> <p>3 A. Correct. Correct.</p> <p>4 Q. And would that have been of</p> <p>5 methadone?</p> <p>6 A. Yes. He oversaw that team.</p> <p>7 Q. Do you recall working with</p> <p>8 him on this?</p> <p>9 A. I don't recall working with</p> <p>10 him on this.</p> <p>11 Q. Do you recall working with</p> <p>12 him generally?</p> <p>13 A. Not too much, truthfully.</p> <p>14 Yeah, I'm trying to think. It was more</p> <p>15 towards the end of my tenure at</p> <p>16 Mallinckrodt that Bob was even present.</p> <p>17 He was a remote employee. So I didn't</p> <p>18 see or talk with him much.</p> <p>19 Q. Do you recall working with</p> <p>20 somebody else before Bob on addiction</p> <p>21 treatment?</p> <p>22 A. I don't. I remember the</p> <p>23 team. Not the members of the team, but I</p> <p>24 remember the team.</p>

<p style="text-align: right;">Page 138</p> <p>1 Q. What do you remember about 2 that team?</p> <p>3 A. That they called on 4 methadone clinics. It was an area I 5 didn't have any familiarity with, that it 6 even existed until I learned of this 7 team.</p> <p>8 Q. And the next page has an org 9 chart.</p> <p>10 Do you see that?</p> <p>11 A. I do see that.</p> <p>12 Q. And that was accurate -- to 13 your understanding, that was accurate for 14 the time?</p> <p>15 A. Yes. That looks like a good 16 representation.</p> <p>17 Q. And the people underneath 18 your name were reporting to you; is that 19 right?</p> <p>20 A. That is correct.</p> <p>21 Q. So Bob Lesnak was VP of 22 sales or VP of sales for addiction 23 treatment?</p> <p>24 A. Based on this, health</p>	<p style="text-align: right;">Page 140</p> <p>1 appears to be.</p> <p>2 Q. And do you see down at the 3 bottom there's a reference to a fentanyl 4 lozenge?</p> <p>5 A. I do see that now.</p> <p>6 Q. Was Mallinckrodt selling 7 both a fentanyl patch and a fentanyl 8 lozenge?</p> <p>9 A. I don't recall the timing in 10 which the lozenge was launched. And I 11 don't recall the fentanyl patch, if that 12 was approved while I was there or not. I 13 just -- I don't remember if that was 14 marketed to the wholesalers and chains 15 and distributors at that time.</p> <p>16 Q. And the next -- the next 17 chart is a bar graph for hydrocodone APAP 18 and modified gross sales.</p> <p>19 Do you see that?</p> <p>20 A. I do see that, yes.</p> <p>21 Q. And the one following is 22 also hydrocodone APAP extended units, 23 right?</p> <p>24 A. Yes.</p>
<p style="text-align: right;">Page 139</p> <p>1 systems, which included hospitals, 2 federal government, self-explanatory. 3 And AT would be addiction treatment. So 4 he had that team.</p> <p>5 Q. And the next page says, 6 "Sales performance and forecast."</p> <p>7 Do you see that?</p> <p>8 A. I do see that.</p> <p>9 Q. And then you see two pages 10 down, you have a pie chart with products 11 driving modified gross.</p> <p>12 Do you see that?</p> <p>13 A. I do see that.</p> <p>14 Q. It looks like the key 15 products are hydrocodone APAP, oxycodone 16 IR, oxycodone APAP, and morphine ER; is 17 that right?</p> <p>18 A. Yes, that's correct.</p> <p>19 Q. And it states that those 20 four key product families represent 21 82 percent of total modified gross sales; 22 is that right?</p> <p>23 A. That's what it's 24 representing here, yes. That's what it</p>	<p style="text-align: right;">Page 141</p> <p>1 Q. And the first -- the first 2 one shows an increase from 2006 through 3 2010 of hydrocodone APAP in terms of 4 modified gross sales, correct?</p> <p>5 A. I'm sorry. What about the 6 ten? I'm sorry. Oh, the year?</p> <p>7 Q. This chart shows an increase 8 from 2006 to 2010 of modified gross sales 9 for hydrocodone APAP, the chart on 10 Page 7?</p> <p>11 A. Yes, it does.</p> <p>12 Q. Okay. And similarly, the 13 next chart shows increase of hydrocodone 14 APAP from extended units from 2006 to 15 2010, correct?</p> <p>16 A. Yes. So, it looks like 17 during that time, we may have encountered 18 Watson having a scenario of supply. And 19 so it looks like we may have been able to 20 transition some product usage from Watson 21 to us.</p> <p>22 I'm trying to look at this.</p> <p>23 Q. If you go two pages further, 24 you see a similar bar graph chart for</p>

<p style="text-align: right;">Page 142</p> <p>1 oxycodone IR, modified gross sales?</p> <p>2 A. Yes, I do see that.</p> <p>3 Q. And it shows in the table</p> <p>4 above, an 83 percent increase from 2007</p> <p>5 to 2008?</p> <p>6 A. I see that, yes. I do see</p> <p>7 it declining in 2010. I don't know what</p> <p>8 drove that.</p> <p>9 Q. And do you see oxycodone IR</p> <p>10 on the next page?</p> <p>11 A. I do see that.</p> <p>12 Q. And that shows a 54 percent</p> <p>13 increase from 2007 to 2008 in terms of</p> <p>14 extended units?</p> <p>15 A. Yes. It appears as if a</p> <p>16 competitor exited the market.</p> <p>17 Q. Ethex and Actavis?</p> <p>18 A. Correct. I guess it was a</p> <p>19 big driver, is what it indicates here, at</p> <p>20 least as an assumption.</p> <p>21 Q. So was this the type of data</p> <p>22 that Mallinckrodt typically -- I mean was</p> <p>23 this a typical tracking of the data of</p> <p>24 its products?</p>	<p style="text-align: right;">Page 144</p> <p>1 hydrocodone with acetaminophen, it would</p> <p>2 be our product, then it would be shipped</p> <p>3 to that pharmacy.</p> <p>4 McKesson, when you sell to</p> <p>5 McKesson, you don't know where that</p> <p>6 product is going. There is a component</p> <p>7 that's OneStop. But McKesson also had</p> <p>8 hospitals, chain accounts, long-term care</p> <p>9 facilities. And so this was their, we'll</p> <p>10 call it, generic source programs. But it</p> <p>11 would go elsewhere outside of the OneStop</p> <p>12 generic source program.</p> <p>13 MR. DOWNS: This is Paul</p> <p>14 Downs from Covington. I'm just</p> <p>15 going to place an objection on the</p> <p>16 record.</p> <p>17 BY MS. BAIG:</p> <p>18 Q. If you skip to Page 38 of</p> <p>19 the PowerPoint presentation, you see a</p> <p>20 market share report for hydrocodone/APAP</p> <p>21 tabs?</p> <p>22 A. I do see that.</p> <p>23 Q. Does this show that</p> <p>24 Mallinckrodt was third in terms of market</p>
<p style="text-align: right;">Page 143</p> <p>1 A. This appears to be more in</p> <p>2 depth than would be traditional. I don't</p> <p>3 recall a format like this.</p> <p>4 Q. If you go a couple pages</p> <p>5 further, you'll see on Page 19 of the</p> <p>6 presentation, it states, "Customers</p> <p>7 driving modified gross."</p> <p>8 A. Yes, I see that.</p> <p>9 Q. Does this identify</p> <p>10 Mallinckrodt's key customers?</p> <p>11 A. It looks -- identifies --</p> <p>12 yes, it looks like potentially, yeah, it</p> <p>13 does.</p> <p>14 Q. Is McKesson OneStop</p> <p>15 different than just McKesson?</p> <p>16 A. Yes. So McKesson OneStop,</p> <p>17 OneStop is a generic source program, and</p> <p>18 McKesson has pharmacies that are apart of</p> <p>19 that program. And we negotiate with</p> <p>20 McKesson to gain a primary position on</p> <p>21 their contract. And the pharmacies that</p> <p>22 they sign on with this program, when they</p> <p>23 purchase product from McKesson, they</p> <p>24 would put in, if they put in a</p>	<p style="text-align: right;">Page 145</p> <p>1 share for hydrocodone APAP at this time</p> <p>2 or for 2007 to 2009?</p> <p>3 A. It does not show that, no.</p> <p>4 Q. What does it show?</p> <p>5 A. Mallinckrodt was the number</p> <p>6 one supplier of hydrocodone to pharmacies</p> <p>7 through its wholesale and chain partners.</p> <p>8 Q. I see.</p> <p>9 A. It does show here that it</p> <p>10 has declined throughout FY '07 from</p> <p>11 52 percent in Q1 down to 40 percent in</p> <p>12 Q4, at the expense of Watson increasing</p> <p>13 its share.</p> <p>14 But again, this is not</p> <p>15 indicative of the market getting bigger.</p> <p>16 It's indicative of, we'll call it that --</p> <p>17 that pie, what percentage of that pie was</p> <p>18 earned by each respective company.</p> <p>19 Q. And your understanding is</p> <p>20 that pie remained the same size in the</p> <p>21 last two decades?</p> <p>22 A. My understanding is that the</p> <p>23 pie is influenced by prescribers of, in</p> <p>24 this case, hydrocodone, not by supplying</p>



<p style="text-align: right;">Page 146</p> <p>1 or shipping the product.</p> <p>2 MR. TSAI: Do you folks want</p> <p>3 to take a break, do another hour,</p> <p>4 or do you want to break for lunch</p> <p>5 now?</p> <p>6 Most important for you.</p> <p>7 THE WITNESS: Yeah. On the</p> <p>8 record my bladder won't make it an</p> <p>9 hour, but I can keep on going for</p> <p>10 a bit if --</p> <p>11 MR. TSAI: We can take a</p> <p>12 short break now. Do you want to</p> <p>13 do another hour?</p> <p>14 MS. BAIG: Do you want to</p> <p>15 break now or keep going?</p> <p>16 THE WITNESS: I can keep</p> <p>17 going for a little while. Yeah.</p> <p>18 MS. BAIG: Okay. Just let</p> <p>19 me know when you'd like a break.</p> <p>20 THE WITNESS: Okay. Sounds</p> <p>21 good.</p> <p>22 BY MS. BAIG:</p> <p>23 Q. Did Mallinckrodt use a</p> <p>24 rebate program in order to maximize its</p>	<p style="text-align: right;">Page 148</p> <p>1 product on the contract. So it is a</p> <p>2 function that is used.</p> <p>3 I will say again, rebates</p> <p>4 are a part of the financial interaction</p> <p>5 between manufacturer and wholesaler,</p> <p>6 manufacturer and chain headquarters. But</p> <p>7 that in itself does not drive demand.</p> <p>8 That in and of itself hopefully</p> <p>9 encourages them to use our product over a</p> <p>10 competitor's product.</p> <p>11 MS. BAIG: Let's have this</p> <p>12 document marked as Exhibit 9.</p> <p>13 (Document marked for</p> <p>14 identification as Exhibit</p> <p>15 Mallinckrodt-Adams-9.)</p> <p>16 BY MS. BAIG:</p> <p>17 Q. This document starts as an</p> <p>18 e-mail from Jeff Burd to you and others,</p> <p>19 dated October 5, 2005. It's</p> <p>20 Bates-stamped Mallinckrodt 0007917528</p> <p>21 through 7576.</p> <p>22 And as the subject it says,</p> <p>23 "Gained accounts and rebate reports."</p> <p>24 For attachments it says, "Gained</p>
<p style="text-align: right;">Page 147</p> <p>1 sales of opioid products?</p> <p>2 A. No. Rebate programs were --</p> <p>3 they did a number of different things.</p> <p>4 Certainly a volume incentive program was</p> <p>5 designed to choose our product over a</p> <p>6 competitor's product relative to what</p> <p>7 they decided to purchase. Rebates are</p> <p>8 part of an industry norm, whether it's</p> <p>9 controlled or noncontrolled, whether it's</p> <p>10 opioids or non-opioids. It is a</p> <p>11 structure that's -- is fairly common.</p> <p>12 Q. My question was just</p> <p>13 whether -- whether Mallinckrodt used a</p> <p>14 rebate program in order to maximize sales</p> <p>15 of opioid products.</p> <p>16 A. Mallinckrodt used a rebate</p> <p>17 program, but not to -- designed to</p> <p>18 increase -- with the exception of the</p> <p>19 volume incentive program, which was</p> <p>20 designed to choose our product over</p> <p>21 another competitor's product.</p> <p>22 So as far as maximizing</p> <p>23 sales, it did -- the intent was to make</p> <p>24 sure that our product was the selected</p>	<p style="text-align: right;">Page 149</p> <p>1 accounts, rebate matrix, and rebate</p> <p>2 schedule." And the first line of the</p> <p>3 e-mail states, "Please find attached the</p> <p>4 updated gained accounts and rebate</p> <p>5 reports with pricing and sales effective</p> <p>6 as of September 30, 2005."</p> <p>7 Do you see that?</p> <p>8 A. I do see that.</p> <p>9 Q. And did you have the</p> <p>10 opportunity to review these types of</p> <p>11 reports in the regular course of your</p> <p>12 business at Mallinckrodt?</p> <p>13 A. Yes, I would -- I would</p> <p>14 regularly see what the rebate structure</p> <p>15 was for customers.</p> <p>16 Q. And on the first page of</p> <p>17 the -- first attachment where it says,</p> <p>18 "Rebate matrix by contract," do you see</p> <p>19 that?</p> <p>20 A. I do.</p> <p>21 Q. And this shows the customers</p> <p>22 on the left-hand side and then under</p> <p>23 rebate percentage, does it show the</p> <p>24 rebates that are being offered for their</p>

<p style="text-align: right;">Page 150</p> <p>1 entire portfolio of products?</p> <p>2 A. It shows the rebate</p> <p>3 percentage. Some products may be</p> <p>4 included or excluded. But that would be</p> <p>5 correct, as far as kind of what the</p> <p>6 rebate percentage is in general.</p> <p>7 Q. And what's the difference</p> <p>8 between direct and indirect?</p> <p>9 A. So direct, so in the case</p> <p>10 of -- I'll use an example here,</p> <p>11 Burlington Drug. They would not be --</p> <p>12 from an indirect perspective, they would</p> <p>13 be buying off a contract that they didn't</p> <p>14 necessarily negotiate directly. They</p> <p>15 would -- that contract was negotiated by</p> <p>16 a group purchasing organization called</p> <p>17 Opti-Source.</p> <p>18 Associated Pharmacies was</p> <p>19 considered direct. They had their own</p> <p>20 warehouse. So Mallinckrodt would</p> <p>21 negotiate with Associated Pharmacies,</p> <p>22 would sell into their warehouse and their</p> <p>23 warehouse would sell into their -- the</p> <p>24 pharmacies within their own network.</p>	<p style="text-align: right;">Page 152</p> <p>1 for other Progenerics sales; is that</p> <p>2 right?</p> <p>3 A. So this is a volume</p> <p>4 incentive program. The other Progen</p> <p>5 sales is considered a volume incentive</p> <p>6 program. So that's what you'll see here.</p> <p>7 And morphine is excluded, apparently,</p> <p>8 from this -- from the volume incentive</p> <p>9 program.</p> <p>10 Q. So instead of getting a</p> <p>11 rebate percentage, they are just getting</p> <p>12 a \$1 million rebate for morphine; is that</p> <p>13 right?</p> <p>14 A. On purchases of 10 million</p> <p>15 and above.</p> <p>16 Q. Okay. And this document</p> <p>17 shows rebates ranging up to 25 percent or</p> <p>18 so?</p> <p>19 A. I don't have the full</p> <p>20 purview of the document in front of me.</p> <p>21 I do see one at 25 percent, yes. So when</p> <p>22 developing a contract with a specific</p> <p>23 customer, you would look at what is the</p> <p>24 net price that you are going to sell to</p>
<p style="text-align: right;">Page 151</p> <p>1 Q. So ABC Progenerics primary,</p> <p>2 one of the first ones listed here, do you</p> <p>3 see that?</p> <p>4 A. I do.</p> <p>5 Q. What does ABC stand for?</p> <p>6 A. AmerisourceBergen.</p> <p>7 Q. Okay. And it shows</p> <p>8 different types of rebate percentages</p> <p>9 for -- what -- what does this show?</p> <p>10 There -- there's more data under the ABC</p> <p>11 Progenerics primary than there is for</p> <p>12 many of the others.</p> <p>13 And you see for example,</p> <p>14 it's discussing morphine only. And then</p> <p>15 it says for \$10 million and above there's</p> <p>16 a \$1 million rebate; is that right?</p> <p>17 A. That's correct.</p> <p>18 Q. So that means they need to</p> <p>19 sell \$10 million in order to receive the</p> <p>20 \$1 million rebate; is that right?</p> <p>21 A. They need to purchase.</p> <p>22 Q. They need to purchase, okay.</p> <p>23 And then -- and then that's</p> <p>24 different thresholds of -- of purchases</p>	<p style="text-align: right;">Page 153</p> <p>1 that customer at. And then you would</p> <p>2 gross up the contract price by this</p> <p>3 percentage.</p> <p>4 So, in the case of</p> <p>5 AmerisourceBergen Progenerics primary, if</p> <p>6 you were selling to them at a net price,</p> <p>7 which is what you would -- internally how</p> <p>8 we would do it, we would say okay, great,</p> <p>9 this is a \$10 net price. And then we</p> <p>10 would gross up their contract price to</p> <p>11 5 -- 5 percent above that.</p> <p>12 So this is all what is the</p> <p>13 net price that is being sold to our</p> <p>14 customers at, is what drives it, not the</p> <p>15 rebate. Each customer has their own</p> <p>16 rebate type of program and process.</p> <p>17 Q. And if you turn a couple</p> <p>18 pages further, you'll see a new document</p> <p>19 starts that's titled Rebate Product</p> <p>20 Schedule?</p> <p>21 A. Do you have a page number</p> <p>22 here? Okay. I see, yes.</p> <p>23 Q. And it's a little bit</p> <p>24 different, because here you have not just</p>

<p style="text-align: right;">Page 154</p> <p>1 a rebate percentage, but also a rebate 2 per bottle figure. Do you see that? 3 A. Yeah. It's -- it's -- I 4 can't speak to the rest of the pages, but 5 it is not on a per bottle. It is -- here 6 are the -- using methylphenidate. It is 7 a rebate percentage based on that 8 particular molecule. So it's not on a 9 different size bottle do you get a 10 different rebate. It's on that 11 particular molecule. 12 I don't know if there are 13 circumstances where it's a different 14 rebate per bottle size within a product 15 family. I can't speak to that by what 16 I've seen here yet. 17 Q. So if you move about halfway 18 down, you'll see APAP codeine and 300/15 19 tabs bottle of 1,000. 20 A. Yes. 21 Q. And there's zero percent 22 rebate offered on that? But then it says 23 \$14 rebate per bottle. What does that 24 \$14 figure mean?</p>	<p style="text-align: right;">Page 156</p> <p>1 calculated on, what is the net price that 2 we would sell to them. And then the \$14 3 rebate you would gross that up from what 4 the net price was up to the \$14. So the 5 real, true price in how you compare 6 across your customers is the net price, 7 which is not listed here. 8 Q. If you move a little further 9 down, you'll see that's two references to 10 morphine sulfate ER? 11 A. Yes. 12 Q. One is for 200 milligrams -- 13 A. Yes. 14 Q. -- in tabs, bottle of 100. 15 And one is for 100 milligrams in tabs 16 bottle of 100. And the 200-milligram 17 tabs have a rebate per bottle of \$165. 18 And the 100-milligram tabs have a rebate 19 per bottle of \$90, correct? 20 A. Yes. And so what you can't 21 tell here is, is that equivalent to a 10 22 percent rebate on what the price is? Is 23 that 165 and is that 90 a 10 percent 24 rebate? I don't know what the price is</p>
<p style="text-align: right;">Page 155</p> <p>1 A. So a couple different things 2 here is, I -- you really can't look at 3 APAP codeine and say there's zero percent 4 rebate. What you can do is, let's say 5 here's Albertsons. And Albertsons has a 6 zero percent rebate for whatever products 7 they stock. So these are the products 8 that they stock. And that's -- they just 9 don't have any rebates affiliated with 10 that from a percentage basis. 11 Now, this rebate per bottle. 12 Instead of doing a percent, you can do it 13 at a bottle level. So it's one or the 14 other. Very rarely would it be both. I 15 don't know if there's circumstances where 16 we -- you would do a per bottle and a 17 percent rebate. I don't know off the 18 top. I don't recall. 19 Q. I see. So they are getting 20 a \$14 rebate per bottle for that 21 particular drug at Albertsons, correct? 22 A. For a bottle of a thousand. 23 So they are getting that rebate, yes. 24 But again, that rebate was first</p>	<p style="text-align: right;">Page 157</p> <p>1 as the basis for this. So the percentage 2 may be very low, 5, 10 percent, whatever. 3 Q. Mm-hmm, of the total price. 4 But you can see that the higher strength 5 morphine sulfate is receiving, at least 6 in this case, a higher rebate per bottle? 7 A. That's correct. It's more 8 of the raw material in there. 9 So in certain circumstances 10 that would be the situation. 11 Q. Do you recall hydrocodone 12 and oxy being big sellers back in the 13 mid-2000s time frame? 14 MR. TSAI: Object to form. 15 Go ahead. 16 THE WITNESS: Oxycodone and 17 hydrocodone were certainly large 18 dollar producers for Mallinckrodt, 19 yes. 20 BY MS. BAIG: 21 Q. And did you have key clients 22 ordering ahead of schedule for those 23 drugs? Do you recall? 24 A. What would you say -- I'm</p>

<p style="text-align: right;">Page 158</p> <p>1 not sure what ahead of schedule is.  2 The only -- not the only,  3 but a scenario in which I could imagine  4 is we were awarded the product in January  5 but the contract didn't start until May.  6 So instead of having them order the  7 product on May 1st, in anticipation of  8 the conversion to our product versus  9 Watson, they would buy it two weeks in  10 advance so they could take the  11 distribution network and make sure the  12 product was stocked in the distribution  13 center for when their pharmacies would  14 order it.  15 Q. I think we've touched  16 already on volume incentive programs.  17 We've touched upon rebates. I'm  18 wondering if there are strategies, other  19 strategies that Mallinckrodt used in  20 order to maximize its sales or increase  21 its market share with respect to opioid  22 products, apart from the volume incentive  23 program, and the rebates.  24 A. I'm trying to think if there</p>	<p style="text-align: right;">Page 160</p> <p>1 certain dollar goals, we will help fund  2 part of that vault program, or that  3 vault."  4 So they would have to hit  5 targets in order for us to make that  6 payment for their vault.  7 Q. I see.  8 MS. BAIG: Let's have this  9 document marked as Exhibit 10.  10 (Document marked for  11 identification as Exhibit  12 Mallinckrodt-Adams-10.)  13 THE WITNESS: Is this a good  14 time to take a break --  15 MS. BAIG: Sure.  16 THE WITNESS: -- since we're  17 moving documents.  18 MS. BAIG: Okay.  19 THE WITNESS: Great.  20 THE VIDEOGRAPHER: Going off  21 the record. The time is 12:24.  22 - - -  23 (Lunch break.)  24 - - -</p>
<p style="text-align: right;">Page 159</p> <p>1 are any other scenarios that you would do  2 besides rebates, volume incentive  3 program, per -- per bottle rebates. So  4 there can be a per bottle rebate as  5 opposed to a percentage rebate.  6 There was a reference to a  7 vault program, which was -- which was  8 included in one of the documents we  9 reviewed. So there may be others. I  10 just don't recall others.  11 Q. What was the vault program?  12 A. The vault program was a  13 program where a particular customer,  14 as -- well, maybe I'll backup one step.  15 Controlled substances, Schedule II, would  16 be stored in a vault. In that vault we  17 would basically say to a customer, and it  18 was not something that we did for  19 everybody, but we would say, "Hey, we  20 understand that you're going to be  21 expanding your vault. We would like for  22 you to choose our product over Actavis,  23 over Ethex," whoever the alternate  24 manufacturer was. "And if you meet</p>	<p style="text-align: right;">Page 161</p> <p>1 A F T E R N O O N   S E S S I O N  2 THE VIDEOGRAPHER: We are  3 going back on record. Beginning  4 of Media File 3. The time is  5 1:04.  6 - - -  7 EXAMINATION (Cont'd.)  8 - - -  9 BY MS. BAIG:  10 Q. Okay. Let's have this  11 document marked as Exhibit 10, please.  12 This is a document that  13 starts as an e-mail from you to Kevin  14 Vorderstrasse dated February 8, 2007.  15 Bates-stamped with Mallinckrodt 000685111  16 through 121?  17 And it states, "Attached is  18 the monthly report."  19 If you look into the  20 attachment, it appears to be a monthly  21 report for -- for January of 2007. Do  22 you see that?  23 A. I do.  24 Q. And do you recall receiving</p>

<p style="text-align: right;">Page 162</p> <p>1 reports like -- like this on a regular  2 basis at Mallinckrodt?  3 A. No, I don't recall that.  4 Can I take a look at it though, just to  5 go through it a little bit more here?  6 (Whereupon, a discussion was  7 held off the record.)  8 THE WITNESS: Okay.  9 BY MS. BAIG:  10 Q. So do you recall receiving  11 monthly reports like this?  12 A. No, I don't remember this  13 type of detail.  14 Q. Who is Kevin Vorderstrasse?  15 A. Kevin, I don't know what his  16 title was, but Kevin would -- he would  17 look at a lot of the IMS data. And he  18 would do analytics, that type of  19 reporting. Some business development  20 too.  21 Q. I see. And you see the  22 first -- second -- or first couple lines  23 of the e-mail at the end it says, "I know  24 you mentioned it was just for a month or</p>	<p style="text-align: right;">Page 164</p> <p>1 lower ordering much in January."  2 Do you see that?  3 A. I do.  4 Q. And then a little bit  5 further down, it states, "Oxycodone was  6 extremely strong this month, primarily  7 driven by the oxy APAP  8 10/325 milligrams."  9 Do you see that?  10 A. I do.  11 Q. What is 10/325?  12 A. Ten is the milligrams of  13 oxycodone. 325 is the milligrams for the  14 acetaminophen.  15 Q. Okay. And it goes onto  16 state, "The forecast was artificially low  17 on this SKU but the majority of the  18 additional demand was higher than normal  19 ordering from Walgreens and Cardinal  20 needing product ahead of our previously  21 agreed upon schedule."  22 Do you see that?  23 A. I do.  24 Q. And then a little bit</p>
<p style="text-align: right;">Page 163</p> <p>1 two."  2 It appears to be referring  3 to the monthly reports. Do you recall  4 that there was a short period of time  5 where monthly reports were generated?  6 A. I don't.  7 Q. You don't recall one way or  8 another?  9 A. I don't.  10 Q. But you don't have any  11 reason to doubt that you received this,  12 given that you e-mailed it, right?  13 A. No, I don't have any doubt.  14 Q. Okay. If you look to the  15 product forecast variances, it's showing  16 that generics had an extremely strong  17 January, driven by hydrocodone and  18 oxycodone in the second -- third line.  19 Do you see that?  20 A. I do.  21 Q. It goes on to state, "Both  22 appeared to be strong, as though  23 wholesalers loaded in additional product  24 at the end of last year. They did not</p>	<p style="text-align: right;">Page 165</p> <p>1 further down, maybe two lines further, it  2 states, "We will need to stimulate sales  3 demand through a promotion."  4 Do you see that?  5 A. I do see that.  6 Q. And are you familiar with  7 what types of promotions Mallinckrodt  8 would use in order to stimulate sales  9 demand?  10 A. So with this, I don't  11 remember this specifically, but to your  12 question, this would be demand that would  13 not be new demand. It would be demand  14 that exists already as a result of  15 physicians prescribing the product. So  16 what would stimulate purchases from  17 wholesalers, chains, et cetera, would be  18 along the lines of trying to make sure  19 that we garnered our part of what that  20 potential unit usage was.  21 As far as some of these, we  22 referred to it earlier, through like  23 AmerisourceBergen, there was the inside  24 sales group who would call pharmacies to</p>



<p style="text-align: right;">Page 166</p> <p>1 increase awareness of the product. That  2 would certainly be a good example of what  3 would be done to do work with the  4 customer base, customers again being  5 defined as pharmacies.  6 Q. But you see the line here  7 that says, "We will need to stimulate  8 sales demand through a promotion, et  9 cetera."  10 Do you see that?  11 A. I do.  12 Q. Does it say anywhere there  13 that it's not intended to stimulate new  14 demand?  15 A. Sales is -- we'll -- we'll  16 say it's synonymous with demand, we can't  17 generate new prescriptions. That is  18 not -- by definition of a generic  19 company, we can't generate new demand.  20 We can work with our customers to supply  21 them product. Again, even the  22 wholesalers, et cetera, and chains can't  23 be the ones to prescribe a product. So  24 they can't do it either. It's just more</p>	<p style="text-align: right;">Page 168</p> <p>1 just mentioned, regarding calling  2 AmerisourceBergen, the pharmacies that  3 purchase through them, to hopefully have  4 them choose our product over a Watson  5 product which was on a dual primary  6 contract.  7 Q. Do you recall fax blasts out  8 to hospitals about certain opioid  9 products?  10 A. I didn't recall that. I'll  11 reiterate that I was on the retail side  12 and not on the hospital health system  13 side.  14 Q. So if you look at the bottom  15 of the second page of this document, do  16 you see where it says, "Unit dose oxy  17 APAP and morphine, buy two get one free  18 promotion starts on February 1st and ends  19 on March 31st. Faxes will be sent to  20 approximately 47,000" -- sorry -- "4,700  21 hospitals."  22 Do you see that?  23 A. I do see that.  24 Q. Do you recall promotions</p>
<p style="text-align: right;">Page 167</p> <p>1 of what part of it can we get to -- what  2 part of that market can we earn, if you  3 will.  4 Q. Sure. Stimulate sales  5 demand. I'm not asking if you had an  6 opportunity to prescribe product,  7 obviously. I'm just asking what tools  8 you used to stimulate demand. Did you  9 use promotions?  10 A. Sorry, I may have --  11 Q. What types of promotion?  12 A. I may have misunderstood  13 your question, your last one.  14 Q. Well, let me rephrase. It  15 states, "We will need to stimulate sales  16 demand through a promotion, et cetera,"  17 correct?  18 A. That's correct, sales  19 demand.  20 Q. Sales demand, yes, through a  21 promotion. Are you familiar with  22 promotions that Mallinckrodt used to  23 stimulate demand, sales demand?  24 A. The one that I recalled, I</p>	<p style="text-align: right;">Page 169</p> <p>1 like buy two, get one free promotions?  2 A. I don't recall that. I can  3 certainly see where this would certainly  4 drive the demand as defined purchases  5 from the hospital through the wholesaler.  6 It doesn't mean that the hospital would  7 have more demand from patients' needs or  8 from prescriptions.  9 Q. Why don't we just clarify  10 when we're talking about demand and  11 sales, we're talking about Mallinckrodt  12 sales, right?  13 A. We are talking about  14 Mallinckrodt sales into wholesalers and  15 distributors.  16 Q. Correct.  17 A. Correct.  18 Q. So when you send a buy two,  19 get one free promotion to 4,700  20 hospitals, do you have any recollection  21 of what that promotion looked like?  22 A. Maybe -- let me just state  23 it once again. This is -- this is the  24 health system side. So I can't speak</p>

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1 specifically to this. But I can  
 2 speculate that what this is is if they  
 3 will buy those two bottles from their  
 4 wholesaler, then a -- then that third one  
 5 would be free. And that would be -- that  
 6 would be coordinated, if you will, to  
 7 have them put the product on the shelf.  
 8 Q. And who designed these buy  
 9 two, get one free promotions? Who would  
 10 have designed that? The marketing  
 11 department?  
 12 A. I don't know truthfully.  
 13 I'm not sure.  
 14 Q. Mallinckrodt had a generics  
 15 marketing department, right?  
 16 A. Yes, that's correct.  
 17 Q. Would your best guess be  
 18 that it probably would have been the  
 19 generics marketing department that  
 20 designed the promotion such as this?  
 21 A. Again, this is -- this is a  
 22 different non-retail segment. So I don't  
 23 know how that was derived or how that was  
 24 developed.

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1 Q. If you wanted to know, who  
 2 would you ask at Mallinckrodt?  
 3 A. I can certainly ask the  
 4 person who -- what's the time? I don't  
 5 even know who it would be at this time.  
 6 January of '07. I don't know if that was  
 7 Bob Lesnak who would see the health  
 8 systems, or if that was -- I'm trying to  
 9 think of the person's name. Lewis  
 10 Archibeck. I don't know which one of  
 11 those would be leading at that time.  
 12 Q. And if you look back again  
 13 to the first page of this monthly report.  
 14 Do you see under products, it identifies  
 15 a number of opioid products, the HB/APAP,  
 16 the morphine ER, and the oxycodone  
 17 family?  
 18 A. I do.  
 19 Q. And it states that for  
 20 HB/APAP, actual sales were 41 percent  
 21 over forecast in terms of units and  
 22 31 percent over forecast in terms of  
 23 dollars.  
 24 Do you see that?

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1 A. I do.  
 2 Q. And it states, "The unit  
 3 variance was due to stronger orders from  
 4 McKesson, Walmart, and CVS."  
 5 Do you see that?  
 6 A. Yes, I do.  
 7 Q. And then a little bit  
 8 further down, next to oxycodone family,  
 9 it states, "The adjusted gross sales for  
 10 the family were over 100 percent above  
 11 the forecasted dollars."  
 12 Do you see that?  
 13 A. I do.  
 14 Q. And volume was also up by  
 15 38 percent from forecasted units?  
 16 A. Correct.  
 17 Q. Would you agree that that's  
 18 trending pretty strongly at this point?  
 19 A. What I would look at is, was  
 20 the forecast wrong? It certainly could  
 21 be. And so -- so there could be a  
 22 forecasting issue. I don't know if from  
 23 the perspective of, in this case, does  
 24 that mean that they were putting that in,

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1 whether they were purchasing that and  
 2 that increased their inventory? I don't  
 3 know what the key driver was that really  
 4 drove those stronger orders.  
 5 Q. If you turn two pages  
 6 further, you'll see a heading "Fentanyl  
 7 Transdermal System." And that was one of  
 8 Mallinckrodt's fentanyl products; is that  
 9 right?  
 10 A. I'm sorry. I'm not quite  
 11 there yet.  
 12 Q. It's the page ending Bates  
 13 Number 116. Was the fentanyl transdermal  
 14 system one of Mallinckrodt's fentanyl  
 15 products?  
 16 A. Yes. I don't know when it  
 17 launched. Just so let me look at this.  
 18 So this appears as if the  
 19 product has not been launched. I'll  
 20 define "launch" as us trying to gain the  
 21 primary position of the wholesalers and  
 22 the chains. A launch was not defined as  
 23 physicians and us promoting to physicians  
 24 to write prescriptions. So the market

<p style="text-align: right;">Page 174</p> <p>1 that was there, it was our goal when  2 launching a generic, is to get our part  3 of that share that was already out there.  4 So I'll define that as launch.  5 It does not appear that  6 we've launched yet, and that we are  7 preparing for that by building inventory.  8 Q. And the concern there was to  9 maintain inventory levels to support the  10 potential for you to garner additional  11 market share right out of the gate at  12 launch; is that right?  13 A. So, yes, what that would  14 mean is that we need inventory in our  15 distribution center, so that when we  16 sign -- when we obtain a contract from a  17 wholesaler or chain or distributor, that  18 we would then be able to support those  19 purchases from them.  20 Q. What was Project Orange?  21 A. Can you -- where -- where is  22 that?  23 Q. Next page. Halfway down.  24 A. I don't recall Project</p>	<p style="text-align: right;">Page 176</p> <p>1 about, can you think of any other  2 marketing tools that were used in order  3 to maximize sales of opioids?  4 A. I don't recall. I will say  5 to maximize purchases of opioids is --  6 is -- purchases from our customers to us,  7 not -- not to enhance demand.  8 I don't recall any other  9 promotions off the top though.  10 Q. If you turn to the last page  11 of this document. Do you see under the  12 heading Top 3 Issues, under Point 2-C,  13 there is a reference to marketing tools?  14 A. I'm sorry, I'm not there  15 yet.  16 Q. Last page. Under Top 3  17 Issues, under 2-C, there's a reference to  18 marketing tools. Do you see that?  19 A. I do see that.  20 Q. Okay. And it references  21 "promotions sales aids, wholesaler  22 stickers are being made and supplied to  23 the sales team."  24 Do you know what promotions</p>
<p style="text-align: right;">Page 175</p> <p>1 Orange. I remember the name. I don't  2 recall what it was.  3 Q. If you turn to the next  4 page. Do you see there's a reference to  5 a cocaine topical?  6 A. I do see that, yes.  7 Q. What was a cocaine topical?  8 A. I don't know from -- this  9 isn't the product that I believe was in  10 the generic retail side.  11 I believe the cocaine was  12 used -- no, I'm not sure, I'm not sure  13 who would use that. But yeah, I don't  14 know. I don't know about that product.  15 Q. It says, "Moved launch until  16 July of 2007." Do you know whether it  17 was ever launched?  18 A. I don't know if it was ever  19 launched. Again, it may have happened  20 after my time. I just don't remember.  21 Q. In addition to the volume  22 incentive programs, the rebate practice  23 programs, the two-for-one offers, some of  24 the sales brochures that we've talked</p>	<p style="text-align: right;">Page 177</p> <p>1 sales aids are being referenced here?  2 A. I don't. And I didn't write  3 this. I'm -- I'm looking at this as,  4 since it's unit dose, probably under  5 health systems, hospital purchases, but  6 that I can't -- I can't say for certain.  7 Q. And are you familiar with  8 the concept of wholesaler stickers?  9 A. I'm not -- I'm not confident  10 in what it was or what it is. If I was  11 to -- if I was to guess, remember we saw  12 the order numbers, it may be something  13 that would go on the -- on the carton  14 that would have the order number from a  15 particular wholesaler or a particular,  16 maybe chain, but where, that way the  17 pharmacist, when they ordered, they would  18 see that order number. That's -- that's  19 kind of what I'm recalling.  20 Q. And how would that be a  21 marketing tool?  22 A. If you have the order  23 sticker on there, as a pharmacist you  24 could then look at that order number</p>

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1 without having to look it up in the  
 2 system and you can say, oh okay,  
 3 AmerisourceBergen, their order number for  
 4 this product is 654321. And you could  
 5 use that to then purchase the product  
 6 from the wholesaler or distributor, as it  
 7 were.  
 8 Q. And at least according to  
 9 this document, wholesaler stickers were  
 10 being made and supplied to the sales  
 11 team. Do you see that?  
 12 A. I do see that.  
 13 Q. And do you have any  
 14 recollection of what those wholesaler  
 15 stickers that were made and supplied to  
 16 the sales team as a marketing tool looked  
 17 like?  
 18 A. No, I think I mentioned  
 19 earlier, I don't recall the program or --  
 20 or what it was. I certainly was  
 21 speculating on what it was to you just  
 22 now.  
 23 Q. Okay.  
 24 MS. BAIG: Rocky, do you

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1 know if the promotion sales aids  
 2 and the wholesaler stickers that  
 3 are referenced here have been  
 4 produced?  
 5 MR. TSAI: I will check and  
 6 get back to you.  
 7 MS. BAIG: That would be  
 8 great. Thank you.  
 9 Let's have this document  
 10 marked as Exhibit 11.  
 11 (Document marked for  
 12 identification as Exhibit  
 13 Mallinckrodt-Adams-11.)  
 14 BY MS. BAIG:  
 15 Q. This is a document that  
 16 starts as an e-mail from -- from you  
 17 dated September 6, 2007. It's  
 18 Bates-stamped Mallinckrodt 0004923043  
 19 through 3048.  
 20 Again, in the first sentence  
 21 it -- it seems to attach a monthly  
 22 report. And the subject line is monthly  
 23 report. Do you see that?  
 24 A. I do.

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1 Q. And here it appears to be a  
 2 report from you to Mike Gunning, if you  
 3 look at the first page of the report. Do  
 4 you see that?  
 5 A. I do.  
 6 Q. Do you recall creating this  
 7 document?  
 8 A. I do not.  
 9 Q. Do you recall working on  
 10 these types of monthly reports when you  
 11 were at Mallinckrodt?  
 12 A. I do not.  
 13 Q. Do you have any doubt --  
 14 reason to doubt that this was created by  
 15 you since it's -- it states to -- that  
 16 it's to Mike Gunning from you?  
 17 A. Yeah, it looks -- that would  
 18 be reasonable to assume. What I might  
 19 suggest, and this is -- that -- I didn't  
 20 pull the data, but it would be provided  
 21 to me from various members of different  
 22 teams. I would aggregate the data and  
 23 put it forth.  
 24 Q. Okay. And if you -- if you

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1 scan the first page, you see there's a  
 2 forecast summary for various products.  
 3 A. Yes.  
 4 Q. And customers, correct?  
 5 A. Hold on one second. Yes.  
 6 Q. And then there's retail  
 7 highlights. And it -- there's a  
 8 paragraph on a number of various  
 9 customers, right, beginning with Rite  
 10 Aid?  
 11 A. That's correct.  
 12 Q. And there's a reference  
 13 there to your attending Rite Aid's recent  
 14 trade showed where you met and mingled  
 15 with store pharmacists as well as top  
 16 pharmacy management?  
 17 A. Yes.  
 18 Q. And would you participate in  
 19 these types of -- of trade shows in order  
 20 to form strong relationships with the  
 21 store pharmacists and the top pharmacy  
 22 management so -- as ultimately to  
 23 maximize sales?  
 24 A. Similar to the CVS meeting

<p style="text-align: right;">Page 182</p> <p>1 that we spoke about before. No. Sorry,  2 with reference to that, this is a  3 scenario where you would attend and the  4 attendance was primarily driven via  5 headquarters of the retail national  6 accounts. So in this case Rite Aid.  7 You -- as a manufacturer who  8 supplied product to them, you would be --  9 you wouldn't really have a choice but to  10 be there. But really, the top pharmacy  11 management is what drove you to be there.  12 Being with the pharmacists wasn't  13 something that was of value, it was more  14 at the senior level.  15 Q. So where you note here that  16 you met and mingled with store  17 pharmacists, that wasn't valuable?  18 A. No, that -- the pharmacists  19 don't have a say in the product that is  20 selected. That occurs at the headquarter  21 level. We don't call on pharmacists. We  22 call on the headquarter level who then  23 makes the decision on which product to  24 stock, ours or Watson for example. So</p>	<p style="text-align: right;">Page 184</p> <p>1 formulary covering Brooks Eckerd's stores  2 is progressing smoothly."  3 Do you see that?  4 A. I do see that.  5 Q. Do you know what that's  6 referring to?  7 A. I believe that Rite Aid  8 purchased Brooks Eckerd's stores. And so  9 they were transitioning from being a  10 specific Brooks Eckerd's pharmacy chain  11 to being operated under Rite Aid. So  12 they would start to operate as if they  13 were under the same contract that Rite  14 Aid negotiates with manufacturers.  15 Q. Do you recall working to  16 develop something called a Narcotics  17 Story?  18 A. A Narcotics Story? I don't  19 remember any specifics on a Narcotics  20 Story. I do recall kind of our component  21 where we would talk about our API and  22 kind of the benefits of us manufacturing  23 our own API and the value of that.  24 Q. What is API again?</p>
<p style="text-align: right;">Page 183</p> <p>1 the pharmacists themselves aren't the  2 ones who are deciding which one's on  3 contract.  4 And I'll make a distinction  5 here is a pharmacy chain with a warehouse  6 has more control over compliance to a  7 contract. So a Rite Aid pharmacist has  8 very little control over what products  9 they can purchase off -- off of that  10 contract that the headquarters has  11 supplied.  12 Q. But according to this  13 document, you did meet and mingle with  14 store pharmacists, correct?  15 A. We -- we did. Again from  16 this, I gather that we did. I will say a  17 traditional format would be that you  18 would have a booth that was supplied by  19 Rite Aid in this case, so a draped table.  20 And the pharmacists would rotate around  21 from booth to booth to -- to talk with  22 the -- each manufacturer.  23 Q. And there is also a  24 reference to "the implementation of the</p>	<p style="text-align: right;">Page 185</p> <p>1 A. Active pharmaceutical  2 ingredient. So where we would make the  3 raw material -- by we, the API team.  4 Q. Do you recall that being  5 called a Narcotics Story?  6 A. I don't recall it being a  7 Narcotics Story. That was kind of, if  8 you will -- we would talk the fact that  9 we made our own raw material, and that  10 certainly was a benefit in the narcotics  11 industry. Any industry, truthfully,  12 where you can make your own raw material.  13 Q. So if you skip to the page  14 that ends in 047, you'll see there are a  15 few references to McKesson.  16 A. Yes.  17 Q. And the second one states,  18 "Concerns by McKesson have been expressed  19 regarding the upcoming pedigree law  20 changes for California set for  21 January 1st, 2009, will new law will  22 require manufacturers to attach a unique  23 identifier to each dangerous drug at the  24 smallest packaging level or container</p>



<p style="text-align: right;">Page 186</p> <p>1 distributed to the wholesaler. Sales and  2 marketing will meet" -- "sales and  3 marketing -- it says, "with meet with  4 logistics." I assume it intends to say,  5 "Sales and marketing will meet with  6 logistics."  7 Do you see that?  8 A. I see that.  9 Q. Are you familiar with this  10 law that was set for January 1st, 2009,  11 in California?  12 A. I don't remember the  13 specific timeline. But I do remember  14 that the state of California, we'll call  15 it, was ahead of the curve relative to  16 developing pedigree to trace product  17 through the supply chain, so from  18 manufacturer to the wholesaler who the  19 pharmacy.  20 And so from this, certainly  21 logistic -- logistical challenges appear  22 to be present.  23 Q. And you understood at the  24 time that the reason for those pedigree</p>	<p style="text-align: right;">Page 188</p> <p>1 California.  2 Q. And do you see on the next  3 paragraph it states, "John Adams and Tim  4 Berry met with 35 McKesson marketing  5 members in San Francisco to present the  6 Narcotics Story."  7 Do you see that?  8 A. I see that line, yes.  9 Q. Do you recall meeting with  10 35 McKesson marketing members in San  11 Francisco to present the Narcotics Story?  12 A. I do remember that, yes.  13 Q. Okay. So does that refresh  14 your recollection as to what the  15 Narcotics Story was?  16 A. Yes. It is in line with  17 what I was talking about relative to the  18 Narcotics Story, is we basically, from  19 the perspective of Mallinckrodt, would  20 purchase the raw opium from India.  21 It would then be brought  22 into the U.S., and Mallinckrodt would  23 then transition that product from raw  24 opium into powder, which would then be</p>
<p style="text-align: right;">Page 187</p> <p>1 law changes in California were that these  2 drugs were dangerous, and there was a  3 potential -- potential risk of abuse and  4 diversion?  5 A. I don't recall that it was  6 specific to that. It does talk about  7 dangerous drugs. I don't know if it  8 refers to non-opioids as well. It  9 certainly has expanded into non-opioids  10 as of today.  11 Q. And why would the sales and  12 marketing team meet with logistics with  13 respect to this particular pedigree law  14 change in California?  15 A. So really in this case it  16 would be important that sales and  17 marketing understand how logistics would  18 roll out such a program, because the  19 sales and marketing team would be talking  20 and speaking with headquarters for  21 wholesalers and distributors that -- that  22 sell into the state of California, which  23 is virtually every wholesaler and  24 distributor would sell into the state of</p>	<p style="text-align: right;">Page 189</p> <p>1 used for -- that would go into finished  2 dosage forms for Mallinckrodt, as well as  3 other manufacturers of opioids.  4 And so that reinforced the  5 message of really a vertically  6 integrated -- meaning, we did the  7 manufacturing from start to finish.  8 So that was truly the  9 Narcotics Story. I don't remember it  10 being called that. But from the  11 perspective of doing that, the real value  12 to the McKesson marketing members who  13 were present is to talk about surety of  14 supply.  15 So when they order product  16 from us, the objective was that hopefully  17 there's a benefit that we can supply  18 product in those scenarios to fill the  19 demand that McKesson's pharmacies have,  20 that, again, they don't control.  21 Q. Were there graphics or  22 PowerPoint presentations in connection  23 with that Narcotics Story that was  24 presented to 35 McKesson marketing</p>

<p style="text-align: right;">Page 190</p> <p>1 members?</p> <p>2 A. There would likely be, yes,</p> <p>3 a PowerPoint presentation with that.</p> <p>4 MS. BAIG: Counsel, can you</p> <p>5 make that that was produced,</p> <p>6 please?</p> <p>7 MR. TSAI: I'll follow-up</p> <p>8 and let you know.</p> <p>9 BY MS. BAIG:</p> <p>10 Q. And who was Tim Berry?</p> <p>11 A. Tim Berry was a national</p> <p>12 account manager who reported to me.</p> <p>13 Q. It says here that that same</p> <p>14 presentation was then delivered to 60</p> <p>15 employees in the Carrollton, Texas, office</p> <p>16 in September.</p> <p>17 Do you see that?</p> <p>18 A. I do. Yes.</p> <p>19 Q. And were those also 60</p> <p>20 McKesson marketing employees in</p> <p>21 Carrollton, Texas?</p> <p>22 A. That's correct. Those</p> <p>23 individuals -- so when you talk</p> <p>24 marketing, again it's just to drive</p>	<p style="text-align: right;">Page 192</p> <p>1 marketing. So that's who would be in</p> <p>2 attendance from the Mallinckrodt team.</p> <p>3 Q. Do you recall who --</p> <p>4 A. And again, the retail team,</p> <p>5 just to define that.</p> <p>6 Q. Do you recall who was there</p> <p>7 from the marketing team?</p> <p>8 A. I don't know, no.</p> <p>9 Q. And that was a follow-up to</p> <p>10 the NACDS meeting; is that right?</p> <p>11 A. So it's in conjunction with</p> <p>12 NACDS. So NACDS, if you recall, is the</p> <p>13 National Association of Chain Drug</p> <p>14 Stores. Part of their meeting that they</p> <p>15 would have every August, I believe --</p> <p>16 yes, every August, there would be, like I</p> <p>17 said, a three or four-day meeting.</p> <p>18 And one of the evenings, not</p> <p>19 every year, but some years we would host</p> <p>20 an event. And in this case, Covidien had</p> <p>21 a booth -- or excuse me, had a suite at</p> <p>22 Fenway Park. And so we invited customers</p> <p>23 to attend that. And we would have food</p> <p>24 and entertainment there relative to</p>
<p style="text-align: right;">Page 191</p> <p>1 compliance to a contract. So those</p> <p>2 employees would contact -- would contact</p> <p>3 pharmacies within their network. So we</p> <p>4 wanted to educate them on Mallinckrodt.</p> <p>5 Q. And on Mallinckrodt</p> <p>6 narcotics, correct?</p> <p>7 A. Yes on the vertical</p> <p>8 integration and the value of being</p> <p>9 vertically integrated relative to supply.</p> <p>10 Q. On the last page under</p> <p>11 NACDS, there is a reference to an event</p> <p>12 at Boston's Fenway Park utilizing the</p> <p>13 Covidien tickets resulting in numerous</p> <p>14 business interactions including Harvard</p> <p>15 Drug, PBA, TrueCare, ABC, Walmart, CVS</p> <p>16 Caremark.</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. And do you recall being at</p> <p>20 the Boston Fenway Park event?</p> <p>21 A. I do.</p> <p>22 Q. And who else was there?</p> <p>23 A. It would be the sales team</p> <p>24 and potentially a person or two from</p>	<p style="text-align: right;">Page 193</p> <p>1 customers.</p> <p>2 And again, I will define</p> <p>3 customers as the buyers, the purchasers</p> <p>4 of products for wholesalers and chains at</p> <p>5 the headquarter level, not at the</p> <p>6 individual pharmacy level and certainly</p> <p>7 nothing below that.</p> <p>8 Q. Do you know what the root</p> <p>9 learning program was?</p> <p>10 A. I don't recollect the root</p> <p>11 learning program.</p> <p>12 Q. You don't recall receiving</p> <p>13 training in a root learning program as is</p> <p>14 referenced here?</p> <p>15 A. I do not recall, no.</p> <p>16 Q. It goes onto state, the</p> <p>17 objective is to have all 43,000 employees</p> <p>18 of Covidien be trained by the end of the</p> <p>19 year.</p> <p>20 Do you recall?</p> <p>21 A. I do not recall.</p> <p>22 (Document marked for</p> <p>23 identification as Exhibit</p> <p>24 Mallinckrodt-Adams-12.)</p>

<p style="text-align: right;">Page 194</p> <p>1 BY MS. BAIG:</p> <p>2 Q. We'll have this document</p> <p>3 marked as Exhibit 12, please. It starts</p> <p>4 as an e-mail from you to Michael Gunning</p> <p>5 and Ginger Collier dated August 6, 2009.</p> <p>6 Bates-stamped twice, but the bottom Bates</p> <p>7 stamp is MNK-T1_0000418847 through 8850.</p> <p>8 And again the subject is</p> <p>9 "Monthly Report."</p> <p>10 A. Okay.</p> <p>11 Q. It states from you,</p> <p>12 "Attached is the monthly report for the</p> <p>13 retail team. Please do not hesitate to</p> <p>14 reach out if you have any questions."</p> <p>15 Do you recall generating --</p> <p>16 is this refreshing your recollection that</p> <p>17 were you generating monthly reports at</p> <p>18 least at about this time?</p> <p>19 A. I see that it's here. I</p> <p>20 don't recall generating monthly reports</p> <p>21 in general.</p> <p>22 Q. But you don't have any</p> <p>23 reason to doubt that you did, given that</p> <p>24 it's attached to your e-mail, right?</p>	<p style="text-align: right;">Page 196</p> <p>1 focus on the retail or if it's a focus on</p> <p>2 the health systems. I don't recall.</p> <p>3 Q. But would it have been</p> <p>4 overseen by the marketing department?</p> <p>5 A. I don't know if that would</p> <p>6 be overseen by the marketing department.</p> <p>7 I don't know if that would be overseen by</p> <p>8 the retail -- or, excuse me, by the</p> <p>9 health systems team which could include</p> <p>10 from a sales perspective. I don't know.</p> <p>11 Q. And do you see on the second</p> <p>12 page under McKesson. That's two bullets.</p> <p>13 And under the first bullet it states, "To</p> <p>14 attain the 70 percent compliance level,</p> <p>15 the GenericsConnect group (telesales) of</p> <p>16 McKesson will start a Mallinckrodt</p> <p>17 HB/APAP promotion. The GenericsConnect</p> <p>18 telephone sales team will be offering</p> <p>19 incentives to the pharmacy to make a</p> <p>20 conversion."</p> <p>21 Do you see that?</p> <p>22 A. I do. Let -- can I read it</p> <p>23 within the context of the whole bullet?</p> <p>24 Q. Mm-hmm.</p>
<p style="text-align: right;">Page 195</p> <p>1 A. I agree. I do not have any</p> <p>2 doubts.</p> <p>3 Q. Do you recall that there was</p> <p>4 a telemarketing program?</p> <p>5 A. Can you refer -- is there</p> <p>6 any reference point?</p> <p>7 Q. I was just wondering</p> <p>8 generally if you recall there ever being</p> <p>9 any sort of telemarketing program for</p> <p>10 your generics products?</p> <p>11 A. I think we had some other</p> <p>12 reference before. I didn't recall there</p> <p>13 was that group. But that was the group</p> <p>14 that, I think we referenced, would call</p> <p>15 individual pharmacies at</p> <p>16 AmerisourceBergen, I believe that was</p> <p>17 part of that program, where they would</p> <p>18 work to -- to have the pharmacies by our</p> <p>19 product off contract.</p> <p>20 Q. And was that overseen by the</p> <p>21 generics marketing department at</p> <p>22 Mallinckrodt?</p> <p>23 A. That's a great question.</p> <p>24 Telemarketing, I don't know if there's a</p>	<p style="text-align: right;">Page 197</p> <p>1 A. Thank you.</p> <p>2 Okay. Thank you.</p> <p>3 Q. Do you recall -- do you</p> <p>4 recall Mallinckrodt contacting with any</p> <p>5 of its large customers for their</p> <p>6 customers to do marketing for them?</p> <p>7 A. So this GenericsConnect</p> <p>8 group --</p> <p>9 Q. Well, first I'm just ask --</p> <p>10 asking generally if you recall that type</p> <p>11 of arrangement.</p> <p>12 A. I do not.</p> <p>13 Q. You don't recall having</p> <p>14 marketing agreements with your large</p> <p>15 distributor customers?</p> <p>16 A. No. I -- but I can give you</p> <p>17 reference to -- I can give you context</p> <p>18 for this one.</p> <p>19 Q. Okay.</p> <p>20 A. But I don't remember having</p> <p>21 a similar program at Cardinal or a</p> <p>22 similar program at AmerisourceBergen or</p> <p>23 other wholesalers.</p> <p>24 Q. Okay. Or any other sorts of</p>

<p style="text-align: right;">Page 198</p> <p>1 marketing agreements with your 2 distributor clients, you don't remember 3 having any kind of marketing agreements 4 with them? 5 A. Can you define marketing 6 agreements? 7 Q. Any sort of agreement that 8 you would enter into with a customer like 9 McKesson or AmerisourceBergen or any 10 other large customer, distributor 11 customer, whereby they would market your 12 drugs for you? 13 A. I don't recall anything 14 specific, but I know that for us to work 15 with the folks, with the McKessons, and 16 with wholesalers, distributors, that -- I 17 do recall one now that you say that. 18 So group -- some groups 19 besides McKesson would have a telephone 20 sales group who would call on pharmacies. 21 So I do remember a couple of specific 22 scenarios like that. And as far as that 23 was concerned, again, it would be the 24 goal to have the product that we provide</p>	<p style="text-align: right;">Page 200</p> <p>1 Q. Okay. And the 2 GenericsConnect group, that was the 3 telesales department of McKesson that 4 would promote Mallinckrodt opioid 5 product? 6 A. In this case, it would be -- 7 MR. DOWNS: Objection. 8 THE WITNESS: In this case 9 it was hydrocodone. And this is 10 what we referred to in the 11 previous document where Tim Berry 12 and I went to Carrollton, Texas, to 13 discuss the Narcotics Story. 14 So that was -- that was the 15 group that we spoke with. 16 BY MS. BAIG: 17 Q. The telephone sales team? 18 A. That's right. That's the 19 GenericsConnect. That's the group that 20 we communicated the Narcotics Story to. 21 Q. So that they could 22 communicate it to others? 23 A. So that the pharmacies that 24 purchased through McKesson, when the --</p>
<p style="text-align: right;">Page 199</p> <p>1 to that customer as defined by the 2 wholesaler distributor, it would be 3 designed for them to have their 4 pharmacists who are in their network 5 purchase from them. 6 Q. Purchase your product from 7 them? 8 A. Yes, have the pharmacies 9 purchase the product from us. 10 Again, not to drive demand 11 of the product, but if there is 100 12 bottles being purchased, we would 13 certainly want to have them work with 14 their pharmacy partners to have it be 15 ours. That would be our objective. 16 Q. But that is driving demand 17 for your product. 18 A. It is not driving demand in 19 the sense of increased prescriptions. It 20 is driving demand in the case of -- 21 Q. Increased purchases from 22 Mallinckrodt? 23 A. Purchases from Mallinckrodt, 24 yes.</p>	<p style="text-align: right;">Page 201</p> <p>1 when the GenericsConnect group talked to 2 them, they could help drive compliance to 3 the contract toward Mallinckrodt, as 4 opposed to other manufacturers of 5 hydrocodone, and hydrocodone with 6 acetaminophen. 7 MR. DOWNS: Objection. 8 BY MS. BAIG: 9 Q. All right. You understood 10 while you were at Mallinckrodt that 11 opioids were controlled substances, 12 right? 13 A. That is correct. 14 Q. And that they were 15 classified by the DEA as Schedule II 16 narcotics? 17 A. Yes. There are Schedule III 18 as well. I don't know classification of 19 opioid or not. But yes, there are 20 Schedule IIIs, IVs as well. 21 Q. Which were the Schedule III 22 products? 23 A. Hydrocodone with 24 acetaminophen is a Schedule III, or -- I</p>

<p style="text-align: right;">Page 202</p> <p>1 said is. My understanding is that  2 classification has since changed. But  3 that did not occur -- I was gone from  4 Mallinckrodt at that time.  5 Q. All the other opioid  6 products that we've looked at so far were  7 Schedule II at the time; is that right?  8 A. I can't say that for  9 certain. I don't know with -- did we  10 have -- I can't say that for certain.  11 I'm trying to think of some of the other  12 products, if there are other  13 Schedule IIIs, and IVs, and actually a V.  14 Q. Were you aware that  15 oxycodone was a Schedule II product?  16 A. Yes.  17 Q. Were you aware that  18 hydrocodone was a Schedule II product?  19 A. It was not a Schedule II  20 product.  21 Q. The straight hydrocodone?  22 A. I didn't -- I don't recall  23 selling a straight hydrocodone.  24 Hydrocodone, when I was at Mallinckrodt,</p>	<p style="text-align: right;">Page 204</p> <p>1 recollection. But ultimately why it's  2 put in as a II or a III or a IV or a V, I  3 don't know the reasoning behind that. I  4 just don't recall.  5 Q. And do you know that there  6 were sort of gradations of -- of dangers  7 associated with these sorts of drugs?  8 A. I don't know what the --  9 what the -- why they had different  10 gradations to use your word. I just  11 don't recall.  12 Q. Do you have an understanding  13 of what a Schedule I drug is?  14 A. Schedule I is, I believe, an  15 illegal product. So that can't be  16 prescribed in the U.S.  17 Q. And so what was your  18 understanding of what a Schedule II  19 product was when you were there?  20 A. It was a legal product that  21 was available, and that FDA deemed was a  22 legal product that could be sold in the  23 United States, and that physicians could  24 prescribe the product.</p>
<p style="text-align: right;">Page 203</p> <p>1 was a Schedule III product.  2 Q. And were you aware that the  3 morphine sulfate was a Schedule II  4 product?  5 A. Yes.  6 Q. Were you aware that the  7 fentanyl products were Schedule II  8 products?  9 A. Yes.  10 Q. And as Schedule II products,  11 were you aware that they had a high  12 potential for abuse?  13 A. I wasn't sure why they were  14 classified the way they were. So I  15 can't -- I can't speak to how they became  16 a II or a III or a IV or a V.  17 Q. You never had any  18 understanding of -- of why a product  19 would be classified as a Schedule II  20 product?  21 A. I wouldn't know necessarily.  22 Or I don't know now necessarily on why  23 that would be. Potentially there's --  24 that would be a gap in my -- again, in my</p>	<p style="text-align: right;">Page 205</p> <p>1 Q. Well, that's for all -- all  2 scheduled products that were not  3 Schedule I, right?  4 My question to you is, did  5 you have any understanding of what  6 Schedule II meant, or no, maybe you  7 didn't?  8 A. The distinction that I  9 understand was the Schedule II required a  10 DEA 222 form. But Schedule III, I don't  11 believe did.  12 Q. And did you have an  13 understanding as to why there were more  14 regulatory requirements for Schedule II  15 than for Schedule III?  16 A. I don't recall at the time.  17 Q. You don't remember?  18 A. No.  19 Q. Whether you ever knew --  20 A. I don't recall, no. I'm not  21 sure how the classification came to be.  22 Q. Were you aware that for  23 Schedule II drugs, Mallinckrodt had an  24 obligation to comply with the Controlled</p>



<p style="text-align: right;">Page 206</p> <p>1 Substances Act?</p> <p>2 A. I was aware that we had</p> <p>3 guidelines that we needed to follow, yes.</p> <p>4 And by we, it's not my area of expertise.</p> <p>5 But we had a compliance team and a</p> <p>6 regulatory team that is well versed in</p> <p>7 that area.</p> <p>8 Q. And when did you first</p> <p>9 become aware that -- for Schedule II</p> <p>10 drugs Mallinckrodt was required to comply</p> <p>11 with the Controlled Substances Act?</p> <p>12 A. I don't know. But as far as</p> <p>13 kind of, again in that area, it's a</p> <p>14 better question for compliance than it is</p> <p>15 for me.</p> <p>16 Q. So you don't recall when you</p> <p>17 became aware of it.</p> <p>18 Are you familiar with the</p> <p>19 Controlled Substances Act?</p> <p>20 A. I'm familiar that it exists.</p> <p>21 I don't know now the details of it. I</p> <p>22 just don't recall.</p> <p>23 Q. Were you aware that</p> <p>24 Mallinckrodt was a DEA registered</p>	<p style="text-align: right;">Page 208</p> <p>1 channel.</p> <p>2 From the pharmacy on down,</p> <p>3 that was -- that was not within the</p> <p>4 purview of what I had and certainly I</p> <p>5 don't believe that was something that was</p> <p>6 within the purview of even a compliance</p> <p>7 team.</p> <p>8 Q. So it was your understanding</p> <p>9 that Mallinckrodt had no obligation to</p> <p>10 prevent diversion?</p> <p>11 MR. TSAI: Object to form.</p> <p>12 Mischaracterizes testimony.</p> <p>13 MS. BAIG: I'm not done with</p> <p>14 the question.</p> <p>15 BY MS. BAIG:</p> <p>16 Q. To prevent diversion of</p> <p>17 opioid products from its downstream</p> <p>18 customers?</p> <p>19 A. I guess there's a couple</p> <p>20 things that I would put into there.</p> <p>21 Mallinckrodt hadn't really put the</p> <p>22 controls in place to ensure that</p> <p>23 downstream customers, and I'll define</p> <p>24 customers as all the way to the pharmacy,</p>
<p style="text-align: right;">Page 207</p> <p>1 manufacturer and distributor for purposes</p> <p>2 of the Controlled Substances Act?</p> <p>3 A. I know that Mallinckrodt was</p> <p>4 approved by the DEA and was allocated</p> <p>5 quota to manufacture product, and that</p> <p>6 there was reporting that occurred</p> <p>7 relative to Mallinckrodt. I don't know</p> <p>8 necessarily the details of those.</p> <p>9 Q. Do you have an understanding</p> <p>10 of what Mallinckrodt's responsibilities</p> <p>11 were under federal law with respect to</p> <p>12 preventing diversion of opioids?</p> <p>13 A. As far as kind of specifics,</p> <p>14 again, this is not my area of expertise.</p> <p>15 But certainly, Mallinckrodt would take</p> <p>16 any, quote-unquote, to use your term</p> <p>17 diversion, extremely seriously. I mean</p> <p>18 as we look at the sale of narcotics,</p> <p>19 opioids legally, through normal channels,</p> <p>20 would go from the manufacturer to the</p> <p>21 wholesaler or chain headquarters, and</p> <p>22 they would then distribute that to their</p> <p>23 pharmacies. That normal chain is a</p> <p>24 legal, recognized process through the</p>	<p style="text-align: right;">Page 209</p> <p>1 that the supply chain tracking that took</p> <p>2 place was secure and if there was a</p> <p>3 breach of the supply chain from</p> <p>4 manufacturer to wholesaler distributor,</p> <p>5 or to a pharmacy, that they would take</p> <p>6 that very seriously and investigate.</p> <p>7 Q. So you started by saying</p> <p>8 that Mallinckrodt hadn't really put the</p> <p>9 controls in place to ensure that</p> <p>10 downstream customers -- and then it</p> <p>11 trailed off from there. Hadn't put what</p> <p>12 controls in place?</p> <p>13 A. Sorry, I want to read this</p> <p>14 back. Downstream customers beyond the</p> <p>15 pharmacy components, beyond the pharmacy.</p> <p>16 So from the perspective of past the</p> <p>17 pharmacy, they didn't have anything</p> <p>18 downstream because that was not something</p> <p>19 that -- we didn't interact with</p> <p>20 physicians. We didn't interact with</p> <p>21 patients. So there weren't controls that</p> <p>22 we had, at least that I'm aware of --</p> <p>23 again it's not an area of my expertise.</p> <p>24 But we -- we -- from the perspective of</p>

<p style="text-align: right;">Page 210</p> <p>1 had controls at the patient and physician 2 level, that is certainly not the area 3 that I understood that -- basically the 4 controls were in place, but if there was 5 anything that ever came to the attention 6 of that group, my understanding is that 7 they would investigate it.</p> <p>8 Q. So you understood that 9 Mallinckrodt was required to have a 10 suspicious order monitoring system in 11 place, correct?</p> <p>12 A. Correct.</p> <p>13 Q. And when did you first come 14 to understand that?</p> <p>15 A. I don't recall a timeline.</p> <p>16 Q. Well, do you recall when 17 Mallinckrodt put in a suspicious order 18 monitoring system?</p> <p>19 A. I don't recall. That was, 20 you know, obviously driven -- driven 21 through a different department. I was 22 obviously aware and was certainly the 23 eyes and ears of the customer to the 24 extent that I could.</p>	<p style="text-align: right;">Page 212</p> <p>1 would flag orders. And if they were 2 stopped for any reason and it was raised 3 up, if I knew that a -- and I'll use 4 McKesson, since I understand -- if there 5 was an order from McKesson, and it 6 caught -- if it raised a red flag from 7 that team, they would do what they needed 8 to do to ensure that we were compliant to 9 the regulation.</p> <p>10 Q. Did you have an 11 understanding that Mallinckrodt had a 12 duty to identify suspicious orders?</p> <p>13 A. I understood that they had a 14 process in place.</p> <p>15 Q. Okay. And what was that 16 process and how did it change while you 17 were there, if at all?</p> <p>18 A. I don't know the full 19 process. But I know that there was a 20 team in place who would review orders. 21 And I don't know -- I understand that 22 there was some sort of algorithm or -- 23 that would -- that would basically have 24 an order come out as an exception. Then</p>
<p style="text-align: right;">Page 211</p> <p>1 Q. Could you give me your best 2 estimate as to when that system was put 3 into place?</p> <p>4 A. I really don't have an 5 estimate for you.</p> <p>6 Q. So you don't know if it was 7 towards the beginning of your tenure at 8 Mallinckrodt or toward the end of your 9 tenure at Mallinckrodt?</p> <p>10 MR. TSAI: Object to form. 11 Go ahead.</p> <p>12 THE WITNESS: I don't know. 13 I'd certainly -- I don't know the 14 timeline that it was put in place. 15 For all I know it could have been 16 put in place before I was -- 17 before I was aware.</p> <p>18 BY MS. BAIG: 19 Q. And did you have an 20 understanding that Mallinckrodt was 21 required to identify and halt shipments 22 of suspicious orders?</p> <p>23 A. I understood that 24 Mallinckrodt would -- had a team that</p>	<p style="text-align: right;">Page 213</p> <p>1 it would be held for further review.</p> <p>2 Q. Do you have an understanding 3 of what that algorithm was?</p> <p>4 A. I don't have full details. 5 Again, that's a question for another 6 group. I do know that it would tie into 7 historical purchases that were made in 8 the past. So as it relates to if they 9 have a history of buying 100 bottles a 10 quarter, and all of the sudden it was 600 11 bottles a quarter, certainly, unless 12 there was an explainable cause, it may 13 kick out as a -- needed to be reviewed.</p> <p>14 Q. And do you recall what the 15 percentage of increased threshold, what 16 percentage was used to trigger an order 17 being considered suspicious by 18 Mallinckrodt?</p> <p>19 A. I don't know if there was a 20 percentage as part of the algorithm. I 21 just don't know how it was built.</p> <p>22 Q. So then you probably don't 23 have any understanding as to -- or memory 24 as to how it changed, if it did; is that</p>

<p style="text-align: right;">Page 214</p> <p>1 right?</p> <p>2 A. I don't have a memory of</p> <p>3 what it was or how it changed.</p> <p>4 What I will tell you is</p> <p>5 whether it's narcotic or a non -- or a</p> <p>6 non-opioid, purchases fluctuate</p> <p>7 significantly within the generic</p> <p>8 industry. One month they can buy 100.</p> <p>9 The next month they can buy 20. The next</p> <p>10 month they can buy 180. It is not a</p> <p>11 straight line demand number. You</p> <p>12 don't -- you don't see that. So it's not</p> <p>13 a straight line demand, like on the brand</p> <p>14 side where physicians -- you know, sales</p> <p>15 reps work with physicians, and they write</p> <p>16 prescriptions. That is a steady increase</p> <p>17 or decrease in prescription growth. This</p> <p>18 is a selling into a distribution center.</p> <p>19 And so they may be</p> <p>20 increasing their stock. They may be</p> <p>21 drawing down inventory. There's a whole</p> <p>22 multitude of reasons why orders fluctuate</p> <p>23 to a great degree. But again, that is</p> <p>24 not isolated to opioids. That is the</p>	<p style="text-align: right;">Page 216</p> <p>1 order, or if there was various levels of</p> <p>2 that.</p> <p>3 Q. Do you recall there being a</p> <p>4 level called "peculiar"?</p> <p>5 A. I recall that now that you</p> <p>6 say it.</p> <p>7 Q. Do you recall any other</p> <p>8 levels, apart from peculiar and</p> <p>9 suspicious?</p> <p>10 A. I do not.</p> <p>11 Q. Do you recall receiving</p> <p>12 training on the suspicious order</p> <p>13 monitoring program?</p> <p>14 A. I don't remember the</p> <p>15 training specifically. But I'm -- I'm</p> <p>16 certain it occurred.</p> <p>17 Q. Do you recall giving</p> <p>18 training to others on the suspicious</p> <p>19 order monitoring program?</p> <p>20 A. I don't recall training</p> <p>21 others. No, I don't recall that. I'm</p> <p>22 trying to think if there would be a time.</p> <p>23 MR. TSAI: We've been going</p> <p>24 about an hour. If we could take a</p>
<p style="text-align: right;">Page 215</p> <p>1 generics industry in general.</p> <p>2 Q. Sure. But what we're</p> <p>3 talking about here is the suspicious</p> <p>4 order monitoring process, right?</p> <p>5 A. Of which I'm certainly not</p> <p>6 an expert on.</p> <p>7 Q. Okay.</p> <p>8 A. Yes.</p> <p>9 Q. And so do you have any</p> <p>10 further understanding of what suspicious</p> <p>11 order monitoring process was in place at</p> <p>12 Mallinckrodt, apart from what you've just</p> <p>13 told me about the fact there was an</p> <p>14 algorithm used that you're not sure how</p> <p>15 it worked?</p> <p>16 A. That there was a team or</p> <p>17 there was -- there were individuals who</p> <p>18 would review that. They would see the</p> <p>19 order, and it would kick out. And I</p> <p>20 don't know how it was classified. My</p> <p>21 understanding there were different</p> <p>22 classifications. I don't know if</p> <p>23 everything reached the level of</p> <p>24 suspicious order monitoring or suspicious</p>	<p style="text-align: right;">Page 217</p> <p>1 break.</p> <p>2 MS. BAIG: Sure.</p> <p>3 THE VIDEOGRAPHER: Going off</p> <p>4 the record. The time is 2:04.</p> <p>5 (Short break.)</p> <p>6 THE VIDEOGRAPHER: We're</p> <p>7 going back on record. Beginning</p> <p>8 of Media File Number 4. The time</p> <p>9 is 2:17.</p> <p>10 MS. BAIG: Okay. Let's have</p> <p>11 this document marked as</p> <p>12 Exhibit 13.</p> <p>13 (Document marked for</p> <p>14 identification as Exhibit</p> <p>15 Mallinckrodt-Adams-13.)</p> <p>16 BY MS. BAIG:</p> <p>17 Q. It starts as an e-mail from</p> <p>18 Karen Harper to you and others.</p> <p>19 Bates-stamped Mallinckrodt 0000304559</p> <p>20 through 698.</p> <p>21 It's dated June 6, 2008.</p> <p>22 And the subject is suspicious order</p> <p>23 monitoring training notes from bulk</p> <p>24 narcotic sales meeting presentation.</p>

<p style="text-align: right;">Page 218</p> <p>1 The attachments are customer 2 checklist, suspicious order monitoring 3 training presentation. 4 And do you see in the first 5 sentence, Karen Harper is stating that 6 she and Bill Ratliff did an introductory 7 controlled substance suspicious order 8 monitoring training for field sales? 9 A. I'm sorry -- 10 Q. Do you see that in the first 11 sentence? 12 A. Field sales. 13 Q. Okay. 14 A. I thought you were going to 15 finish the sentence. Sorry. 16 Q. So she and Bill performed 17 this training at the domestic sales 18 meeting for bulk narcotics. Do you see 19 that? 20 A. I do see that, yes. 21 Q. And what was the domestic 22 sales meeting for bulk narcotics? 23 A. I'm not sure. I was not 24 involved in bulk narcotics. So I'm not</p>	<p style="text-align: right;">Page 220</p> <p>1 Q. Headquarter level of your 2 customers, correct? 3 A. That's -- that's correct. 4 Q. And the domestic sales 5 meeting for bulk narcotics, is it your 6 understanding that that was an internal 7 Mallinckrodt meeting or -- or a meeting 8 with people from outside of Mallinckrodt? 9 A. Again, this is outside of my 10 area. But for me, a sales meeting, a 11 domestic sales meeting would mean for the 12 internal team. 13 Q. So was there a sales team 14 for bulk narcotics that you're aware of? 15 A. I don't know -- I don't know 16 of a sales team. I'm sure there was. I 17 mean, for bulk narcotics, which is, 18 again, selling the raw material, the 19 actual powder that other manufacturers 20 make, their customer base would be 21 calling on -- like -- excuse me, like a 22 Watson or Amneal or Ethex. Another 23 manufacturer would be -- where you would 24 sell bulk narcotics, it's my</p>
<p style="text-align: right;">Page 219</p> <p>1 sure -- I don't know who would be 2 comprised of that group. And then I 3 guess field sales, maybe just want to put 4 some context around that. Field sales 5 for -- field sales would not be calling 6 on physicians or working with patients at 7 any level. Field sales is something that 8 appears to be a term here that is 9 national account, where you call in 10 headquarters for chains, and in that -- 11 in this case, I guess bulk narcotics. 12 You wouldn't be calling on anything other 13 than a headquarter level type call. 14 Q. It doesn't state here who 15 the field sales force were calling on, 16 does it? 17 A. It doesn't. It's just the 18 term field sales, for branded -- for 19 branded products, it tends to be more 20 where you'd call on a doctor. But field 21 sales in the generic certainly would mean 22 calling on headquarters -- headquarter 23 level and not to physicians or 24 prescribers, as it were.</p>	<p style="text-align: right;">Page 221</p> <p>1 understanding. 2 Q. And you don't know who this 3 presentation was made to, who was on that 4 field sales meeting? 5 A. I don't. I don't recall. 6 If I -- if I knew, I don't recall it. 7 Q. And do you see the next 8 page, there's a customer checklist? 9 A. I do see that. Yes. 10 Q. Do you recall seeing 11 customer checklists when you were at 12 Mallinckrodt, like this? 13 A. It isn't specifically -- I 14 don't remember it specifically. But what 15 this -- this is jogging -- there's some 16 familiarity as I look at it. 17 Q. Do you know who created this 18 or when? 19 A. No, I don't know. 20 Q. And you don't know when it 21 was implemented? 22 A. I don't recall anyway. I'm 23 sorry? 24 Q. Do you know when -- know</p>

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1 when the use of this checklist was  
 2 implemented, if at all, at Mallinckrodt?  
 3 A. No, I don't recall.  
 4 Q. And the next -- who was  
 5 Mallinckrodt's security director?  
 6 A. I'm going to speculate it  
 7 was Bill Ratliff, but I don't know that  
 8 to be the case.  
 9 Q. Okay. And you see the next  
 10 page starts a PowerPoint, "Mallinckrodt  
 11 controlled substance suspicious order  
 12 monitoring program."  
 13 A. I'm sorry. Where are you?  
 14 Oh, there we are.  
 15 Q. First page of the  
 16 PowerPoint.  
 17 A. Yep.  
 18 Q. And do you see the heading  
 19 there?  
 20 A. Yes.  
 21 Q. And it states, "Introductory  
 22 training for field sales, June 5th,  
 23 2008."  
 24 So you don't know who's in

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1 the field sales group that got this  
 2 training, right?  
 3 A. My -- no. I wouldn't know  
 4 who would be involved in that. The only  
 5 thing that I can define as field sales is  
 6 not calling on doctors.  
 7 Q. You see here that it  
 8 identifies the Mallinckrodt suspicious  
 9 order monitoring procedure team?  
 10 A. Yes.  
 11 Q. And you are identified on  
 12 that team?  
 13 A. That is correct.  
 14 Q. Do you have any further  
 15 recollection of what you did as being  
 16 part of that team?  
 17 A. I don't. Being part of the  
 18 team just heading up the sales group,  
 19 certainly as eyes and ears of the  
 20 organization, certainly makes sense to be  
 21 kind of there on the periphery.  
 22 Q. And the marketing directors  
 23 were also on that team, Jeff Burd and Bob  
 24 Lesnak.

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1 Do you see that?  
 2 A. I do see that.  
 3 Q. And the next page states  
 4 that, "DEA policy requires that  
 5 registrants report suspicious order to  
 6 the DEA when discovered through  
 7 monitoring."  
 8 Do you see that?  
 9 A. I do see that.  
 10 Q. And do you know who at  
 11 Mallinckrodt was responsible for  
 12 reporting suspicious orders to the DEA?  
 13 A. Again, this is outside of my  
 14 area of expertise. But I would -- I  
 15 believe it would be, like, a compliance  
 16 team or a regulatory team that would --  
 17 Q. Do you know?  
 18 A. No, I do not.  
 19 Q. So while you were at  
 20 Mallinckrodt, were you aware of the  
 21 people who were charged with that task or  
 22 if people were actually charged with that  
 23 task?  
 24 A. I don't know for that task,

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1 but I know compliance was, like, Karen  
 2 Harper is -- who -- who would be the  
 3 person that would be over the compliance  
 4 team.  
 5 Q. And did you ever see any  
 6 suspicious orders that were reported to  
 7 the DEA?  
 8 A. I wasn't -- I wasn't  
 9 monitoring orders. That was a different  
 10 group that would do that. So I -- I  
 11 can't speculate on that.  
 12 Q. You don't recall ever seeing  
 13 any reports to the DEA of suspicious  
 14 orders?  
 15 A. That's correct. I would not  
 16 be -- I don't believe that I would ever  
 17 be copied on a document to the DEA for  
 18 suspicious orders. But again, I don't  
 19 recall any situation where that would  
 20 occur.  
 21 Q. Do you recall where, at  
 22 Mallinckrodt, those reports, if they  
 23 existed, would have been kept?  
 24 A. I don't. Again, that would



<p style="text-align: right;">Page 226</p> <p>1 be a compliance topic or question.  2 Q. And do you see the next  3 bullet on the DEA policy on suspicious  4 orders states that, "Registrant is  5 reminded that their responsibility does  6 not end merely with the filing of a  7 suspicious order report."  8 Do you see that?  9 A. I see the statement.  10 Q. And did you have an  11 understanding that Mallinckrodt was  12 required not only to report suspicious  13 orders, but also to halt shipment of  14 them?  15 A. I don't know what  16 constituted at what level it was halted  17 or if it was stopped altogether, later  18 released. I don't know the level in  19 that. Again, compliance has their  20 parameters in that regard.  21 Q. If you skip two pages  22 further onto -- looking at the bottom  23 left, Page 8 of the PowerPoint. Do you  24 see a slide that says, "Revised</p>	<p style="text-align: right;">Page 228</p> <p>1 A. I do see that.  2 Q. Do you have an understanding  3 as to why the orders were flagged as  4 peculiar instead of suspicious?  5 A. I don't know. If I recall  6 there was a -- from a compliance  7 perspective, I don't know what hit one  8 level to another and what the differences  9 were. But peculiar, I think is the --  10 we'll call it one level and then  11 suspicious order is the next level up, if  12 I recall.  13 Q. Do you know if any orders  14 actually went from the peculiar level to  15 the suspicious order at Mallinckrodt  16 while you were there?  17 A. I don't recall anything  18 specifically.  19 Q. Generally?  20 A. I don't recall anything  21 generally.  22 Q. Do you know what threshold  23 was used in the algorithm to flag an  24 order as peculiar?</p>
<p style="text-align: right;">Page 227</p> <p>1 controlled substance suspicious order  2 monitoring procedure highlights"?  3 A. Sorry. This is what gets  4 confusing. When you say two pages, it's  5 actually four for me, so that's I'm  6 sometimes having trouble --  7 Q. Sorry. Mine are --  8 A. -- with mine. So I just --  9 Q. Mine are double-sided.  10 A. Yeah, yeah, gotcha. So  11 anyway, if you could restate that, that  12 would be helpful.  13 Q. Sure. If you go to Page 8.  14 A. Yes.  15 Q. And there's a heading there  16 that says, "Revised controlled substance  17 suspicious order monitoring procedure  18 highlights"?  19 A. Okay.  20 Q. The fourth entry under the  21 heading states, "Order entry system flags  22 peculiar orders of unusual size/frequency  23 based upon algorithm."  24 Do you see that?</p>	<p style="text-align: right;">Page 229</p> <p>1 A. I think I answered that no,  2 I do not know that. I just don't recall  3 anything relative to the algorithm that  4 would give us that information.  5 Q. Do you see on the next page,  6 the heading is, "Revised controlled  7 substance suspicious order customer  8 checklist."  9 Do you see that?  10 A. I do see that.  11 Q. And it states, "To be  12 completed by field sales."  13 Do you see that?  14 A. I do see that.  15 Q. So do you know who -- who  16 was required to complete the checklist?  17 A. Field sales says defined by  18 the folks who call on customer, defined  19 as -- if you're referring specifically to  20 this training, it looks like to the field  21 sales for the bulk side. But again, I'm  22 not sure. I don't recall.  23 Q. Do you know whether your  24 sales team was required to complete the</p>

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1 controlled substance suspicious order  
 2 customer checklist, the generic sales  
 3 team?  
 4 A. Yeah. I don't recall if  
 5 they were required, but again, the form  
 6 looked familiar to me.  
 7 Q. Well, I think this is a  
 8 different customer checklist. I'm  
 9 reading from this that these are the  
 10 checklists. Are you reading it somehow a  
 11 little bit differently?  
 12 A. I thought you were  
 13 referencing back to the form itself. And  
 14 I guess when we first looked at the form,  
 15 I just -- like I said, the form looked  
 16 familiar to me, but...  
 17 Q. So here it states, "Revised  
 18 controlled substance suspicious order  
 19 customer checklist. To be completed by  
 20 field sales." It goes on to state, "Know  
 21 your customer is the goal." It goes on  
 22 to state, "Description of neighborhood,  
 23 high crime area, et cetera."  
 24 Do you know whether or not

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1 your sales team was doing any monitoring  
 2 of neighborhoods of customers?  
 3 A. As far as going into  
 4 neighborhoods, there's only one scenario  
 5 where I'm aware of one of our reps who  
 6 road along with a consultant from DEA,  
 7 and one scenario.  
 8 Q. Which one was that?  
 9 A. That was Victor Borelli.  
 10 Q. And who was the customer?  
 11 A. I'm not sure. I'm not sure.  
 12 Q. Do you recall what the  
 13 outcome was of that ride-along?  
 14 A. No, I don't.  
 15 Q. Do you require -- do you  
 16 recall any on-site visits such as  
 17 indicated in the next line?  
 18 A. I'm not sure exactly what  
 19 on-site -- but certainly going to a  
 20 customer is defined by the headquarters  
 21 for a chain wholesaler distributor. It  
 22 was not uncommon for us to go and meet  
 23 with our customers at their location.  
 24 Q. And did you take pictures of

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1 their locations?  
 2 A. Not that I recall.  
 3 Q. So is it your understanding  
 4 that this check -- this -- this checklist  
 5 here identified on this page on Page 9  
 6 that identifies knowing your customer,  
 7 knowing a description of the neighborhood  
 8 and whether it's a high crime area,  
 9 requiring an on-site visit inside and  
 10 out, requiring physical description of  
 11 facility or photos, and including a list  
 12 of indicators (watch outs), that require  
 13 further review by security, it's your  
 14 understanding that this list was to be  
 15 applied to whom?  
 16 A. I'm not sure. I know from  
 17 maybe looking through this as far as kind  
 18 of a description of neighborhood, I was  
 19 describing more of a pharmacy. So when I  
 20 mentioned with Victor, I don't know  
 21 necessarily that this is a neighborhood  
 22 relative to a distributor or a chain.  
 23 As far as photos, I don't  
 24 believe many customers would allow you to

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1 take photos. But nonetheless -- at least  
 2 inside.  
 3 So from this perspective, I  
 4 can't speak to the context of this  
 5 specific, as it was delivered to a  
 6 different group. Again, I received it as  
 7 part of this e-mail.  
 8 Q. Do you recall having  
 9 communications with your generic sales  
 10 team about descriptions of neighborhoods  
 11 of certain customers and whether they  
 12 were in high crime areas?  
 13 A. I don't remember specific  
 14 conversations regarding that.  
 15 Q. What about with respect to  
 16 on-site visits?  
 17 A. Again, we would be at  
 18 customers, headquarters, for wholesalers,  
 19 chains, distributors. We would  
 20 definitely be on site to have those  
 21 meetings.  
 22 Q. So your only understanding  
 23 for on-site visit would be the  
 24 headquarters for a distributor. You're

<p style="text-align: right;">Page 234</p> <p>1 not aware of any other on-site visits 2 that Mallinckrodt performed? 3 A. I don't know about 4 Mallinckrodt in general. But the 5 meetings I would -- I'm trying to think 6 if I had meetings at a different level 7 other than headquarters for chains and 8 wholesalers and distributors. 9 Q. You or your team? 10 A. It would be highly unusual. 11 That was not -- yeah, that would be 12 highly unusual. 13 Q. You don't recall any? 14 A. No. I mean again, Victor 15 may have done that on one occasion, 16 Victor Borelli, as I mentioned before. 17 Q. You -- you don't recall 18 where? 19 A. I don't recall. 20 Q. Do you know what's in -- 21 what's referenced here when it says watch 22 outs, including a list of indicators or 23 watch outs? 24 A. Compliance would be better</p>	<p style="text-align: right;">Page 236</p> <p>1 A. I'm not aware of red flags 2 or watch outs that were list -- that were 3 listed or identified through any 4 discussions. I just don't recall 5 anything. 6 Q. Who is Cathy Stewart? 7 A. I'm not sure what her title 8 is truthfully. I don't remember what her 9 responsibility was. 10 Q. Do you remember what area of 11 the company she worked in? 12 A. I don't remember. 13 Q. Do you remember working with 14 her on any projects? 15 A. I remember Cathy. I'm sure 16 I could pick her out of a crowd of one, 17 but I don't recall -- I don't recall her 18 role or what she did. 19 Q. How about George Saffold? 20 A. I don't -- I don't recall. 21 I remember the name. I don't recall what 22 George's role was. 23 (Document marked for 24 identification as Exhibit</p>
<p style="text-align: right;">Page 235</p> <p>1 to identify what that is. I mean -- 2 Q. Yeah, but I'm just wondering 3 if you have an understanding given your 4 years of experience. 5 Do you have an understanding 6 of what was referenced there by watch 7 outs? 8 A. And I'll just put into 9 context. My -- my years of experience 10 were certainly limited relative to -- to 11 this. 12 But as far as watch outs, I 13 just viewed that as a general term of 14 anything raised a flag, red flag. So I 15 view that as -- 16 Q. And what sorts of things 17 would raise a red flag, if anything, that 18 you're aware of? 19 A. I think, again, compliance 20 would be better to put that out there as 21 kind of what would be included in that 22 list. 23 Q. Are you aware of anything, 24 or no?</p>	<p style="text-align: right;">Page 237</p> <p>1 Mallinckrodt-Adams-14.) 2 BY MS. BAIG: 3 Q. I'll have this document 4 marked as Exhibit 14. And it appears to 5 be an e-mail from Karen Harper dated -- 6 or it starts as an e-mail from Karen 7 Harper dated September 17, 2009, with the 8 subject suspicious order monitoring 9 presentation. Bates-stamped at the 10 bottom Mallinckrodt 21000027124 through 11 18266. 12 And this, if you turn to the 13 attachment. It's Mallinckrodt's 14 controlled substance suspicious order 15 monitoring program, and it says API sales 16 and marketing meeting, September 30, 17 2009. 18 Do you recall an API sales 19 and marketing meeting from September 30, 20 2009? 21 A. I don't. I was not part of 22 that group. That's -- that's the bulk -- 23 bulk raw material team. I don't recall. 24 Q. And this presentation</p>

<p style="text-align: right;">Page 238</p> <p>1 appears to be similar but not exactly the</p> <p>2 same as the one we looked at.</p> <p>3 But if you turn to the</p> <p>4 Bates-stamped page at the bottom that</p> <p>5 ends 132, which if you're looking at the</p> <p>6 bottom left is Page 8 of the PowerPoint.</p> <p>7 A. Okay.</p> <p>8 Q. Do you see it says,</p> <p>9 "Statistics on national drug abuse</p> <p>10 trends. Findings from the most recent</p> <p>11 data available from the National</p> <p>12 Institute of Drug Abuse."</p> <p>13 Do you see that?</p> <p>14 A. I do see that.</p> <p>15 Q. Do you recall Mallinckrodt</p> <p>16 tracking data available from the National</p> <p>17 Institute of Drug Abuse?</p> <p>18 A. This, again, was outside of</p> <p>19 anything relative to, as an API and</p> <p>20 bulk -- or -- and sales and marketing, I</p> <p>21 don't recall that. So this is outside of</p> <p>22 my context, if you will.</p> <p>23 Q. Okay. You don't recall ever</p> <p>24 seeing any sort of data from National</p>	<p style="text-align: right;">Page 240</p> <p>1 Do you see that?</p> <p>2 A. I do see that.</p> <p>3 Q. And that this represents</p> <p>4 approximately 20 percent of the U.S.</p> <p>5 population?</p> <p>6 A. I do see that.</p> <p>7 Q. And it goes on to state that</p> <p>8 "among persons aged 12 or older who used</p> <p>9 pain relievers nonmedically in the past</p> <p>10 12 months, 55.7 percent got the drug from</p> <p>11 someone they knew, and only 3.9 percent</p> <p>12 purchased the pain reliever from a drug</p> <p>13 dealer or other stranger."</p> <p>14 Do you see that?</p> <p>15 A. I do see that.</p> <p>16 Q. Did you have an</p> <p>17 understanding of these basic abuse trends</p> <p>18 while you were at Mallinckrodt?</p> <p>19 A. I guess from the perspective</p> <p>20 of this -- again I've not seen this slide</p> <p>21 that I'm aware of, as far as kind of this</p> <p>22 context here.</p> <p>23 Pain relievers sounds pretty</p> <p>24 broad, so I'm not sure what's included in</p>
<p style="text-align: right;">Page 239</p> <p>1 Institute of Drug Abuse?</p> <p>2 A. I don't recall any data from</p> <p>3 them.</p> <p>4 Q. Do you recall seeing</p> <p>5 information about commonly abused opioids</p> <p>6 and morphine derivatives?</p> <p>7 A. I don't recall that</p> <p>8 terminology.</p> <p>9 Q. And here it identifies</p> <p>10 codeine -- codeine, opium, morphine,</p> <p>11 oxycodone, hydrocodone, fentanyl and</p> <p>12 fentanyl analogs, and then heroin. Do</p> <p>13 you see that?</p> <p>14 A. I do see that.</p> <p>15 Q. And on the next page, do you</p> <p>16 see there's a heading called Abuse</p> <p>17 Trends. Do you see the abuse trends</p> <p>18 slide?</p> <p>19 A. I do see the side -- slide,</p> <p>20 yes.</p> <p>21 Q. And it states that "an</p> <p>22 estimated 48 million people, ages 12 and</p> <p>23 older, have used prescription drugs for</p> <p>24 nonmedical reasons in their lifetimes."</p>	<p style="text-align: right;">Page 241</p> <p>1 that. As far as kind of anything from --</p> <p>2 that I can derive from this, again</p> <p>3 outside of my area of expertise, I'm not</p> <p>4 sure.</p> <p>5 Q. So you don't recall having</p> <p>6 any communications with anybody at</p> <p>7 Mallinckrodt about abuse trends such as</p> <p>8 these or anything similar?</p> <p>9 A. This -- this does not look</p> <p>10 familiar to me. I don't recall it.</p> <p>11 Q. But my question is a little</p> <p>12 bit broader.</p> <p>13 A. Oh.</p> <p>14 Q. Do you recall ever having</p> <p>15 communications with anybody at</p> <p>16 Mallinckrodt about abuse trends such as</p> <p>17 these or similar to these?</p> <p>18 A. I don't recall anything</p> <p>19 specifically. But as far as kind of</p> <p>20 abuse, certainly at times and I can't</p> <p>21 pinpoint an example, any example of the</p> <p>22 fact that there were people who were</p> <p>23 abusing prescription products. I know</p> <p>24 from the perspective of, you know, the</p>

<p style="text-align: right;">Page 242</p> <p>1 channel of distribution, it was -- it was  2 our goal to make sure and supply the  3 product that physicians were prescribing  4 to patients for legitimate pain use.  5 That was our objective, is to make sure  6 and have that supply available for that  7 legitimate use.  8 Q. Do you recall having any  9 communications with anybody at  10 Mallinckrodt about addiction rates for  11 opioid products?  12 A. I don't recall having any  13 discussions on that.  14 Q. Were you aware of the Rite  15 Aid issues identified on the next page?  16 A. I have not seen it yet. Is  17 that two pages? Hold on one second.  18 Q. It begins by stating, "On  19 January 12, 2009, Rite Aid and nine of  20 its subsidiaries in eight states have  21 agreed to pay \$5 million in civil  22 penalties. The investigation revealed a  23 pattern of violations of the Controlled  24 Substances Act."</p>	<p style="text-align: right;">Page 244</p> <p>1 A. I do see that.  2 Q. Were you familiar with --  3 when you were at Mallinckrodt with  4 Mallinckrodt -- with Masters' massive  5 amounts of sales of opioid products?  6 A. I more recall -- no  7 necessarily. I do remember, though,  8 internet pharmacies as being a red flag  9 in that time frame.  10 Back to the question. Do I  11 recall that they sold massive amounts? I  12 can't really define massive. What I can  13 say is Masters certainly had increased  14 sales while I was there. And I'll say  15 that Masters certainly had the ability in  16 short supply scenarios to -- to be able  17 to reach pharmacies. And they were more  18 nimble than most.  19 (Document marked for  20 identification as Exhibit  21 Mallinckrodt-Adams-15.)  22 BY MS. BAIG:  23 Q. We'll have this document  24 marked as Exhibit 15. It begins as an</p>
<p style="text-align: right;">Page 243</p> <p>1 A. I don't recall this.  2 Q. You don't recall any of  3 these types of issues arising with Rite  4 Aid while you were there?  5 A. I do not.  6 Q. Okay. Do you see the next  7 page, Page 12, it begins "Masters  8 Pharmaceutical"? Do you recall Masters  9 Pharmaceutical being fined by the DEA?  10 A. I do recall.  11 Q. What do you recall about  12 that?  13 A. That they were fined by DEA.  14 I remember fined. And if I'm not  15 mistaken, I believe that they were  16 fighting that fine. Based on what  17 premise, I don't know.  18 Q. And it states here that  19 Masters sold more than four million doses  20 of hydrocodone, phentermine and  21 alprazolam to internet pharmacies between  22 2005 and 2008 without reporting its sales  23 to the DEA.  24 Do you see that?</p>	<p style="text-align: right;">Page 245</p> <p>1 e-mail from Karen Harper to you dated  2 June 2, 2008. Subject: "Suspicious  3 order monitoring customer  4 checklist/facility photographs."  5 And I would just direct you  6 to the very end of the document where  7 Karen Harper writes, "A subcommittee  8 composed of CSR managers, John Adams, and  9 DEA compliance will meet tomorrow,  10 June 3, 2008, to formulate algorithms to  11 be used for detection of peculiar or  12 suspicious orders."  13 Does this refresh your  14 recollection that you were involved in  15 formulating these algorithms?  16 A. It does not. I don't know  17 if I was present at that meeting or -- or  18 not. So no, I don't recall being part of  19 that algorithm creation.  20 Q. And you don't recall what  21 the algorithms were, correct?  22 A. That's correct. I do not  23 recall that.  24 Q. Okay. Do you know if</p>



<p style="text-align: right;">Page 246</p> <p>1 Mallinckrodt worked with any -- with any  2 third parties to outsource its obligation  3 to prevent oversupply and diversion of  4 controlled substances under the  5 Controlled Substances Act or did it  6 oversee compliance entirely itself?  7 MR. TSAI: Object to form.  8 Go ahead.  9 THE WITNESS: I don't recall  10 having outside third party from a  11 compliance perspective. I'm  12 trying to think if there's any  13 scenario. I don't recall of any  14 scenario.  15 BY MS. BAIG:  16 Q. So you don't recall working  17 with any third parties on suspicious  18 order monitoring?  19 A. I don't recall that that was  20 part of any process for suspicious order  21 monitoring.  22 (Document marked for  23 identification as Exhibit  24 Mallinckrodt-Adams-16.)</p>	<p style="text-align: right;">Page 248</p> <p>1 their services.  2 Q. Okay. And actually I see at  3 the bottom of this, it says that Gretta  4 Turner is from risk management. I'm  5 sorry, from -- wait, from medical  6 affairs.  7 A. Okay.  8 Q. She is the risk management  9 coordinator for Covidien in the medical  10 affairs department.  11 Do you see that?  12 A. I do see that.  13 Q. And IntegriChain -- was  14 IntegriChain hired -- hired by  15 Mallinckrodt?  16 A. I don't recall. I don't  17 believe so, but I don't recall.  18 Q. You don't recall ever  19 working with anybody from IntegriChain?  20 A. I recall some time  21 throughout my career that IntegriChain  22 made presentations about their services,  23 but I don't know if it was relative to  24 this or other times.</p>
<p style="text-align: right;">Page 247</p> <p>1 BY MS. BAIG:  2 Q. Let's have this document  3 marked as Exhibit 16. It begins as an  4 e-mail from Gretta Turner dated July 15,  5 2008. First page is  6 Mallinckrodt_0002906782 through 6783.  7 And it's from -- who is  8 Gretta Turner?  9 A. I'm not sure.  10 Q. It's from Gretta Turner to  11 you. And the subject is "July 15th  12 IntegriChain meeting."  13 A. It looks like it's to a  14 broader group than just me.  15 Q. To you and others, yes. To  16 you and others.  17 A. Okay.  18 Q. Do you recall working with a  19 company called IntegriChain?  20 A. I don't recall working with  21 them. I do recall IntegriChain in  22 general. That certainly is something --  23 I don't recall this presentation, but  24 them trying to come in and sell some of</p>	<p style="text-align: right;">Page 249</p> <p>1 Q. And if you turn to the  2 Page 3, looking at the middle of the  3 page, of the PowerPoint, this slide is  4 titled "Background."  5 Do you see that?  6 A. Yes.  7 Q. And the first line says,  8 "Covidien has engaged IntegriChain in a  9 proof-of-concept program that leverages  10 Covidien's channel data to proactively  11 monitor channel integrity."  12 Do you see that?  13 A. I do see that.  14 Q. What's your understanding of  15 what that means?  16 A. I don't know specifically  17 here. But IntegriChain, in general -- so  18 I can speak not specifically to this and  19 what that means. But basically what they  20 look at is inventory levels at a  21 wholesale level, certainly. I don't know  22 if they have inventory level data at  23 other -- if they have it at chains'  24 headquarters, or if they have it at</p>

<p style="text-align: right;">Page 250</p> <p>1 distributors.</p> <p>2 So their channel data, I</p> <p>3 don't know specifically what that would</p> <p>4 mean.</p> <p>5 Q. Does this suggest to you</p> <p>6 that Covidien actually engaged</p> <p>7 IntegriChain?</p> <p>8 A. By engaged, it looks like</p> <p>9 they met with them. But I don't know</p> <p>10 that they engaged them. So I can't speak</p> <p>11 to that truthfully.</p> <p>12 Q. But you would agree that the</p> <p>13 first sentence says, "Covidien has</p> <p>14 engaged IntegriChain in a</p> <p>15 proof-of-concept program that leverages</p> <p>16 Covidien's channel data to proactively</p> <p>17 monitor channel integrity."</p> <p>18 Correct?</p> <p>19 A. This is developed by</p> <p>20 IntegriChain, so I don't know what their</p> <p>21 level of -- what their definition of</p> <p>22 "engaged" means. Again, I don't recall</p> <p>23 -- I don't recall this, and I don't</p> <p>24 recall ever bringing on IntegriChain</p>	<p style="text-align: right;">Page 252</p> <p>1 Mallinckrodt used IntegriChain to use</p> <p>2 ARCOS data in connection with controlled</p> <p>3 substance monitoring, right?</p> <p>4 A. I don't know that. Yes.</p> <p>5 And I guess further, Phase II, is this a</p> <p>6 theoretical scenario, or is this</p> <p>7 something that IntegriChain actually had</p> <p>8 the ability to do? That, potentially</p> <p>9 they're over promising and would</p> <p>10 underdeliver. I just don't know. I've</p> <p>11 been presented IntegriChain data services</p> <p>12 and have declined their services in every</p> <p>13 scenario.</p> <p>14 I don't recall if this was</p> <p>15 ever presented to me. But I have never</p> <p>16 hired them as a result of not believing</p> <p>17 their data has good integrity.</p> <p>18 Q. You personally have not, but</p> <p>19 you're still unsure as to whether</p> <p>20 Mallinckrodt did, right?</p> <p>21 A. I'm uncertain if</p> <p>22 Mallinckrodt did. I certainly did not</p> <p>23 see or don't recall seeing anything</p> <p>24 relative to that. And again, I can tell</p>
<p style="text-align: right;">Page 251</p> <p>1 services.</p> <p>2 Q. Okay.</p> <p>3 A. So I just don't recall.</p> <p>4 Q. Do you see the last --</p> <p>5 there's a Phase I and Phase II paragraph</p> <p>6 here.</p> <p>7 Do you see that?</p> <p>8 A. Mm-hmm.</p> <p>9 Q. And under Phase II, the last</p> <p>10 bullet says, "Demonstrate whether ARCOS</p> <p>11 data, as provided by the government under</p> <p>12 FOIA request, can support comprehensive</p> <p>13 geographically specific monitoring of</p> <p>14 controlled substance inventory change and</p> <p>15 risk."</p> <p>16 Do you see that?</p> <p>17 A. Yeah, hold on. Gotcha. I</p> <p>18 see that. Yes.</p> <p>19 Q. Do you know whether</p> <p>20 Mallinckrodt ever used ARCOS data in</p> <p>21 connection with the controlled substance</p> <p>22 monitoring?</p> <p>23 A. I don't know.</p> <p>24 Q. And you don't know whether</p>	<p style="text-align: right;">Page 253</p> <p>1 you that I've been presented that, since</p> <p>2 departing Mallinckrodt and I've chose not</p> <p>3 to purchase that data.</p> <p>4 Q. Okay.</p> <p>5 A. Because of concerns of</p> <p>6 integrity.</p> <p>7 Q. Okay. So if you turn to</p> <p>8 Page 27, you see there's a page that</p> <p>9 says, "Orders from high-risk channels."</p> <p>10 And it states, "Examples of wholesalers</p> <p>11 with counterfeiting/diversion ties</p> <p>12 purchasing Covidien products."</p> <p>13 Do you see that?</p> <p>14 A. I do see that.</p> <p>15 Q. And then there's a list of</p> <p>16 products: Methadone, oxycodone with</p> <p>17 APAP, methadone --</p> <p>18 A. Oh wait, sorry, maybe I'm on</p> <p>19 the wrong page.</p> <p>20 Q. I'm on Page 27.</p> <p>21 A. Okay. List of products.</p> <p>22 Q. It starts, "Orders from high</p> <p>23 risk channels."</p> <p>24 A. Oh, I'm sorry, I didn't see</p>

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1 the products on the left. Thank you for  
 2 clarifying.  
 3 Q. Okay. You got it?  
 4 A. I do.  
 5 Q. All right. So this doesn't  
 6 necessarily refresh your recollection  
 7 that they did any analysis with respect  
 8 to Covidien, it could still be a pitching  
 9 document; is that right?  
 10 A. Absolutely. It doesn't --  
 11 it doesn't help me recall anything. Nor  
 12 does -- does it give me any indication on  
 13 the viability of data.  
 14 Q. And if you turn two pages  
 15 further you see a slide, order diversion  
 16 risk analysis.  
 17 A. Yes. Do you know if they  
 18 know whose product that is or if these  
 19 are actual -- oh, never mind. Never  
 20 mind.  
 21 Say -- okay. Under order  
 22 diversion risk analysis. Yes.  
 23 Q. I can just see what it says  
 24 at the top, which is "oxycodone customers

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1 with largest relative growth." Do you  
 2 see that?  
 3 A. I'm now -- I'm now on the  
 4 right page again. We just have a page  
 5 difference.  
 6 Q. Page 29.  
 7 A. Yep, I'm there.  
 8 Q. Okay. And it says,  
 9 "Oxycodone customers with largest  
 10 relative growth." Do you see that?  
 11 A. I do see that.  
 12 Q. And it identifies a number  
 13 of customers. Do you see that?  
 14 A. I do see that.  
 15 Q. Okay. But you've -- you  
 16 don't have any recollection of this  
 17 document, correct?  
 18 A. I don't have any  
 19 recollection. I do find it interesting.  
 20 So Kaiser is a health maintenance  
 21 organization that employs physicians and  
 22 pharmacists, and patients outside of  
 23 Kaiser cannot actually buy product from  
 24 their pharmacy. So that's an interesting

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1 dynamic.  
 2 Vermont Veterans Home is a  
 3 government facility, so I'm not sure what  
 4 to derive from that. And Community Care  
 5 I don't have any insight into either.  
 6 Six months does not make a  
 7 trend. So when I look at this data,  
 8 again, it just raises further data  
 9 integrity issues. So I'll just leave it  
 10 at that.  
 11 Q. Did you ever have any  
 12 communications with anyone at the DEA  
 13 regarding Mallinckrodt's suspicious order  
 14 monitoring procedures?  
 15 A. Not that I recall.  
 16 Q. Do you recall a customer by  
 17 the name of Sunrise?  
 18 A. I do.  
 19 Q. And do you recall that in or  
 20 about 2007 they were placed on a  
 21 do-not-ship list?  
 22 A. I don't recall that.  
 23 (Document marked for  
 24 identification as Exhibit

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1 Mallinckrodt-Adams-17.)  
 2 BY MS. BAIG:  
 3 Q. We'll have this document  
 4 marked as Exhibit 17.  
 5 The bottom Bates-stamped  
 6 number is Mallinckrodt 0000383892, and it  
 7 is an e-mail from Victor Borelli to you,  
 8 dated September 27, 2007, with the  
 9 subject line Masters.  
 10 Do you see that?  
 11 A. I do see that.  
 12 Q. So in the first -- in the  
 13 first sentence the subject is Masters,  
 14 and it's from Victor Borelli. And it  
 15 states, "I already had a conversation  
 16 with them about this customer (Sunrise)  
 17 back in June and it slipped through one  
 18 of the cracks. They remembered the  
 19 conversation distinctly. They now have  
 20 that customer on a do-not-ship list."  
 21 Does this refresh your  
 22 recollection at all that Masters may have  
 23 put Sunrise on a do-not-ship list in or  
 24 about 2007?

<p style="text-align: right;">Page 258</p> <p>1 A. It does.</p> <p>2 Q. And what do you recall about</p> <p>3 this incident?</p> <p>4 A. So when we sold to one</p> <p>5 wholesaler or distributor, we didn't</p> <p>6 intend for that wholesaler or distributor</p> <p>7 to ship to another wholesaler or</p> <p>8 distributor, so the fact that Masters, a</p> <p>9 distributor, was selling to Sunrise, a</p> <p>10 distributor, wasn't what the sale chain</p> <p>11 was intended to be.</p> <p>12 So instead of selling to a</p> <p>13 Masters, it's not like Masters had a</p> <p>14 do-not-ship. It's, we said do not sell</p> <p>15 to them because we would instead never go</p> <p>16 through the process of having a</p> <p>17 wholesaler distributor sell to another.</p> <p>18 Our intent to sell to</p> <p>19 Masters is that they would sell to their</p> <p>20 retail pharmacies that are in their</p> <p>21 network, not to other distributors. So</p> <p>22 do-not-ship doesn't mean it was illegal</p> <p>23 or that they were flagged or that there</p> <p>24 was any concern about the legality of the</p>	<p style="text-align: right;">Page 260</p> <p>1 chargeback is what we would pay Masters.</p> <p>2 In this case we said I know</p> <p>3 you bought it from us for 100. I know</p> <p>4 you sold it to Sunrise for some price</p> <p>5 lower than that. But because we had them</p> <p>6 on a do not ship to another wholesaler</p> <p>7 distributor, we are denying your</p> <p>8 chargeback. So even though you bought it</p> <p>9 for 100 and you sold it to them for \$75,</p> <p>10 we're not paying you that \$25 that you</p> <p>11 believe you're owed.</p> <p>12 So it potentially is -- is a</p> <p>13 good way to upset your customer that</p> <p>14 you're not going to honor a chargeback.</p> <p>15 Q. I see. Okay.</p> <p>16 So that was in September of</p> <p>17 2007.</p> <p>18 (Document marked for</p> <p>19 identification as Exhibit</p> <p>20 Mallinckrodt-Adams-18.)</p> <p>21 BY MS. BAIG:</p> <p>22 Q. And then we'll have this</p> <p>23 document marked as Exhibit 18. And it's</p> <p>24 an e-mail that begins from Victor Borelli</p>
<p style="text-align: right;">Page 259</p> <p>1 shipment. It is more that they are not</p> <p>2 to be shipping to another wholesaler</p> <p>3 distributor.</p> <p>4 Q. And do you see the beginning</p> <p>5 of the e-mail, it starts with you asking</p> <p>6 Victor, "How did Masters take it when the</p> <p>7 chargeback was denied because of their</p> <p>8 sales to Sunrise wholesale"?</p> <p>9 A. Yes.</p> <p>10 Q. Am I to understand from that</p> <p>11 that basically Masters didn't get their</p> <p>12 chargeback because their sales were</p> <p>13 reduced because they had to stop shipping</p> <p>14 to Sunrise?</p> <p>15 A. That's not how to interpret</p> <p>16 that, if you will.</p> <p>17 No disrespect by the way.</p> <p>18 Q. It's okay.</p> <p>19 A. What -- what it means is</p> <p>20 Masters bought it from us at wholesale</p> <p>21 acquisition cost. And let's say that was</p> <p>22 \$100. They then sold it to Sunrise at a</p> <p>23 price that was lower than \$100, which</p> <p>24 would then trigger a chargeback. That</p>	<p style="text-align: right;">Page 261</p> <p>1 to you dated -- no, it's an e-mail from</p> <p>2 Kate Neely to Michael Gunning, it starts.</p> <p>3 Dated June 3, 2008.</p> <p>4 A. Yes.</p> <p>5 Q. And it also deals with</p> <p>6 Masters. If you take a look at the</p> <p>7 document. And if you start at the end of</p> <p>8 the e-mail chain, you see an e-mail from</p> <p>9 Victor Borelli to Kate Muhlenkamp and --</p> <p>10 or Kate Neely. Who is Kate Neely?</p> <p>11 A. She is a marketing manager</p> <p>12 or product manager.</p> <p>13 Q. Okay. And Victor is -- is</p> <p>14 identifying some of his larger customers</p> <p>15 by monthly volume. Do you see that?</p> <p>16 A. I do see that.</p> <p>17 Q. And that includes both</p> <p>18 Masters and Sunrise. Do you see that?</p> <p>19 A. I do see that.</p> <p>20 Q. So is -- is Sunrise now a</p> <p>21 customer -- a direct customer of yours</p> <p>22 because you are not shipping to Masters</p> <p>23 who is shipping to Sunrise?</p> <p>24 A. That's correct.</p>

<p style="text-align: right;">Page 262</p> <p>1 Q. Okay.</p> <p>2 A. Well, I -- at this time I</p> <p>3 don't know if they are. But that looks</p> <p>4 like -- it looks like they were set up by</p> <p>5 then, yes.</p> <p>6 Q. Okay. And Kate -- Kate</p> <p>7 Neely says, "Is Masters ongoing?" And</p> <p>8 Victor Borelli says, "Yes," correct?</p> <p>9 "They have moved us from</p> <p>10 secondary to primary and it is ours to</p> <p>11 lose going forward."</p> <p>12 A. Yes.</p> <p>13 Q. And they have -- appear to</p> <p>14 have pretty substantial volume</p> <p>15 particularly in the oxy 30-milligram, do</p> <p>16 you see that?</p> <p>17 A. I do see that relative to</p> <p>18 these other customers. Relative to the</p> <p>19 overall market, I don't know, off the</p> <p>20 top, if this is high volume or just</p> <p>21 relative to the smaller -- these other</p> <p>22 distributors.</p> <p>23 Q. But we see that he's</p> <p>24 identifying them as one of his larger</p>	<p style="text-align: right;">Page 264</p> <p>1 that the selection of Cardinal as a</p> <p>2 choice to compare it against is probably</p> <p>3 not a good comparison. Cardinal has the</p> <p>4 least amount of independent pharmacies in</p> <p>5 its network. So -- so for them most of</p> <p>6 the product that would be sold through</p> <p>7 Cardinal goes to a small number of</p> <p>8 independents, but a large number of chain</p> <p>9 pharmacies. We'd have a contract with</p> <p>10 CVS, and they would buy through Cardinal.</p> <p>11 So to put in Masters, who</p> <p>12 competes against -- you know, in the</p> <p>13 independent market against Cardinal who</p> <p>14 doesn't have a huge independent base, is</p> <p>15 an apples and orange comparison. So that</p> <p>16 is one component that I guess is worth</p> <p>17 looking into further.</p> <p>18 Q. You don't -- her comment is</p> <p>19 simply that --</p> <p>20 MR. DOWNS: Objection.</p> <p>21 BY MS. BAIG:</p> <p>22 Q. -- here we have an</p> <p>23 independent -- we have monthly volumes</p> <p>24 for these smaller customers that are</p>
<p style="text-align: right;">Page 263</p> <p>1 customers by monthly volumes in any</p> <p>2 event, correct?</p> <p>3 A. That's correct. And Victor</p> <p>4 had smaller regional accounts at that</p> <p>5 time.</p> <p>6 Q. And do you see Kate --</p> <p>7 Kate's response where she states, "These</p> <p>8 usages account for 10 percent of the 15</p> <p>9 and 30-milligram market, and in the case</p> <p>10 of the 30-milligram are significantly</p> <p>11 higher than those of Cardinal, who we</p> <p>12 have on source. They look" -- all</p> <p>13 caps -- "VERY high and are concerning to</p> <p>14 me. We need to talk as I don't know that</p> <p>15 I feel comfortable shipping them at such</p> <p>16 high levels."</p> <p>17 Do you see that?</p> <p>18 A. I do see that.</p> <p>19 Q. Would that suggest to you</p> <p>20 that these are pretty high levels for oxy</p> <p>21 15 and oxy 30?</p> <p>22 A. Just as a top line</p> <p>23 statement. Certainly, when it's 10</p> <p>24 percent, that's significant. I would say</p>	<p style="text-align: right;">Page 265</p> <p>1 actually higher than one of the three</p> <p>2 largest distributors in the company,</p> <p>3 Cardinal Health, correct?</p> <p>4 A. Yes.</p> <p>5 MR. TSAI: Objection to</p> <p>6 form.</p> <p>7 Go ahead.</p> <p>8 THE WITNESS: Yes. Their</p> <p>9 purchases here are higher than</p> <p>10 Cardinal. And it's -- it would be</p> <p>11 the Cardinal Source program. So</p> <p>12 again, different customer base</p> <p>13 relative to Masters and Cardinal.</p> <p>14 BY MS. BAIG:</p> <p>15 Q. And you see that, at least</p> <p>16 for -- for Kate Neely, she finds these</p> <p>17 concerning?</p> <p>18 A. Yeah, and I think that's, as</p> <p>19 a marketing person, it is that person's</p> <p>20 right to look at and say, "What is this</p> <p>21 volume relative to IMS?" And so this is</p> <p>22 a comparison of those volumes to IMS</p> <p>23 extended units. But that -- she has</p> <p>24 every right to ask that question. And I</p>



<p style="text-align: right;">Page 266</p> <p>1 think that's a good sign that she is  2 taking that step of due diligence.  3 (Brief interruption.)  4 BY MS. BAIG:  5 Q. So do you see in Victor  6 Borelli's response, he states that under  7 Item 1, "Sunrise business was in their  8 overall monthly usage number. That  9 brings the Masters number down 25 percent  10 right off the bat."  11 A. Yes, I see that.  12 Q. Okay. And so that -- is  13 that because Masters is no longer  14 shipping to Sunrise because of the e-mail  15 chain we looked at a few moments ago?  16 A. That's correct.  17 Q. Okay. And he goes on to  18 explain that, "We have begun to ship  19 Sunrise an assortment of products:  20 Hydromorphone, oxy APAP, methadone, oxy  21 tabs, et cetera. And you and I have  22 discussed this already."  23 Do you see that?  24 A. I do see that, yes.</p>	<p style="text-align: right;">Page 268</p> <p>1 that those growth rates are for Masters?  2 A. That would have been my  3 understanding. I think the context of  4 this is really important. Oxycodone  5 extended-release, when that went off the  6 market, that basically indicates that  7 there is a segment of the pain market,  8 and the market that would be sold to  9 would be the legitimate pain market, is  10 what this is presumably speaking to, but  11 when oxy ER went off the market, that  12 leaves a gap where patients who need pain  13 medications had to have their doctor  14 write a prescription to change it from  15 oxy ER to oxy IR, which then helped drive  16 the growth rate of that.  17 So that's a good context to  18 have in there and why the growth rate  19 jumped so much.  20 Q. Do you have -- do you recall  21 the DEA raising an issues with Masters in  22 or about 2009?  23 A. I think we looked at a  24 document about that not too long ago in</p>
<p style="text-align: right;">Page 267</p> <p>1 Q. Do you recall generally  2 weighing in on this discussion and  3 talking with them about the high volume  4 amounts going to Masters, KeySource,  5 Sunrise or NCM?  6 A. I don't recall specifically  7 diving into this discussion.  8 Q. And in Item 3, with respect  9 to the growth pattern of the molecule,  10 Victor Borelli states, "They had very  11 solid numbers on these two SKUs over the  12 past few years, but since oxy ER came off  13 the market, those two SKUs have  14 skyrocketed. I just took a look at year  15 over year numbers, and the 15-milligram  16 SKU has an '06/'07 growth rate of  17 60 percent and an '07/'08 growth rate of  18 43 percent, and the 30 milligrams is even  19 stronger with an '06/'07 growth rate of  20 80 percent and '07/'08 growth rate of  21 68 percent."  22 Do you see that?  23 A. Yes, I do see that.  24 Q. And is it your understanding</p>	<p style="text-align: right;">Page 269</p> <p>1 this.  2 (Document marked for  3 identification as Exhibit  4 Mallinckrodt-Adams-19.)  5 BY MS. BAIG:  6 Q. I'll have this document  7 marked as Exhibit 19. It's Bates-stamped  8 Mallinckrodt_0000565729 through 5730. It  9 starts as an e-mail from you to Michael  10 Gunning dated May 1st, 2009.  11 A. I see it, yes.  12 Q. Okay. And it starts off  13 with a reference to Masters resolving  14 their DEA issues.  15 Do you see that?  16 A. Can I take -- can I go ahead  17 and read?  18 Q. Mm-hmm.  19 A. Thank you. Okay.  20 Q. And it begins as an e-mail  21 from someone at Masters to you and Victor  22 Borelli, correct?  23 A. Correct.  24 Q. Do you recall communicating</p>

<p style="text-align: right;">Page 270</p> <p>1 with Denny Smith from Masters?</p> <p>2 A. I do.</p> <p>3 Q. On this occasion or just</p> <p>4 generally?</p> <p>5 A. Generally.</p> <p>6 Q. Did you have numerous</p> <p>7 communications with Denny Smith at</p> <p>8 Masters?</p> <p>9 A. No, I did not have numerous</p> <p>10 discussions with him.</p> <p>11 Q. What do you recall</p> <p>12 communicating with him about?</p> <p>13 A. My first communication with</p> <p>14 him wasn't so pleasant. I didn't like</p> <p>15 the way that he was advertising at a</p> <p>16 national trade show that I attended.</p> <p>17 He was advertising,</p> <p>18 basically calling AmerisourceBergen,</p> <p>19 Cardinal and McKesson, The Three Stooges.</p> <p>20 And I took issues with how unprofessional</p> <p>21 his advertising was for the industry as a</p> <p>22 whole.</p> <p>23 Q. And did you let him know</p> <p>24 that?</p>	<p style="text-align: right;">Page 272</p> <p>1 has come under great debate and concern</p> <p>2 from the DEA?</p> <p>3 A. I don't know the exact</p> <p>4 timeline, but certainly that is a -- that</p> <p>5 is a debate that certainly is valid.</p> <p>6 Q. You became aware of that</p> <p>7 generally around that time?</p> <p>8 A. I'm not sure exactly what</p> <p>9 time I became aware of that.</p> <p>10 Q. But you did receive this</p> <p>11 e-mail in or about March of 2009, right?</p> <p>12 A. Correct.</p> <p>13 Q. And he goes on to state,</p> <p>14 "Many wholesale drug distributors have</p> <p>15 already had significant fines and had to</p> <p>16 add to their existing protocols."</p> <p>17 Were you aware of that at</p> <p>18 the time?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And he goes on to</p> <p>21 state, "Distributors are how charged with</p> <p>22 policing dispensers by increasing</p> <p>23 pharmacy due diligence through technology</p> <p>24 and staff."</p>
<p style="text-align: right;">Page 271</p> <p>1 A. I did.</p> <p>2 Q. And what was his response?</p> <p>3 A. He thought that I needed to</p> <p>4 obtain a sense of humor.</p> <p>5 Q. Okay. Any other</p> <p>6 communication? Do you recall?</p> <p>7 A. No. In this context right</p> <p>8 here.</p> <p>9 Q. Do you see in the e-mail at</p> <p>10 the bottom of the first page from Denny</p> <p>11 Smith at Masters, he starts off, "Thank</p> <p>12 you for taking the time to hear our reply</p> <p>13 to your concerns on Friday."</p> <p>14 And he goes on to state, "As</p> <p>15 you know, the sale of controlled</p> <p>16 substances to dispensers by distributors</p> <p>17 has come under great debate and concern</p> <p>18 from the DEA."</p> <p>19 Were you aware of that at</p> <p>20 the time?</p> <p>21 A. I'm sorry. Say it -- sorry.</p> <p>22 Q. Were you aware of the fact</p> <p>23 what he's saying, the sale of controlled</p> <p>24 substances to dispensers by distributors</p>	<p style="text-align: right;">Page 273</p> <p>1 Were you aware of that at</p> <p>2 the time?</p> <p>3 A. At the time, I didn't know</p> <p>4 what the level that distributors or</p> <p>5 wholesalers were charged with doing.</p> <p>6 Q. So did you have an</p> <p>7 understanding at the time that</p> <p>8 distributors had an obligation to monitor</p> <p>9 dispensers by increasing pharmacy due</p> <p>10 diligence?</p> <p>11 A. I don't know specifically</p> <p>12 relative to this time. I know I had a</p> <p>13 conversation with HD Smith senior</p> <p>14 management that basically said they</p> <p>15 believe they are doing everything right.</p> <p>16 But ultimately the rules keep on changing</p> <p>17 from DEA and they had a hard time, so I</p> <p>18 know that that was an issue that I heard</p> <p>19 from various wholesalers and distributors</p> <p>20 that the rules kept on changing for them.</p> <p>21 Q. Do you recall learning, as</p> <p>22 is reflected in the -- in the top portion</p> <p>23 of the e-mail, that Masters had made a</p> <p>24 decision to greatly curtail shipments to</p>

<p style="text-align: right;">Page 274</p> <p>1 Florida for oxy IR, separate from the DEA 2 action, because they saw a lot of red 3 flags when visiting a bunch of clinics? 4 A. Sorry. Where are you 5 reading from? 6 Q. The third paragraph of your 7 e-mail. 8 A. Oh, yes. Yep. 9 Q. Do you recall being aware of 10 that at the time? 11 A. Quite a -- quite a span 12 between the time that -- Denny's e-mail 13 from March 16th till May 1st. So I don't 14 know at what time that came through or 15 how that was confirmed. I don't know 16 exactly the -- the timeline. 17 Q. Well, you wrote this e-mail 18 on May 1st, 2009, correct? 19 A. Correct. I just don't know 20 when I learned it. There's a long span 21 between those dates. 22 Q. But certainly by May 1st, 23 2009 you learned it, correct? 24 A. Yes.</p>	<p style="text-align: right;">Page 276</p> <p>1 Masters? 2 A. Yes, from the discussions 3 and I think from -- yeah. 4 Q. And that the DEA also asked 5 for personal financial statements from 6 all the officers at Masters? 7 A. I didn't recall that. 8 Q. Okay. But you wrote it here 9 in the e-mail, correct? 10 A. Yeah, I didn't recall that. 11 Q. You mean you don't recall it 12 now, but you did at the time, right? 13 A. I -- I don't recall it now. 14 And I wrote it, so I must have had 15 insight into that, yes, correct. 16 Q. Okay. Did you ever have 17 a -- or did you have an understanding at 18 the time that the officers at Masters 19 were earning significant dollar amounts 20 as a result of exceedingly high sales of 21 oxy? 22 A. I can't -- I can't speculate 23 on how it is that they became -- what was 24 your term, "wealthy"? Or how they gained</p>
<p style="text-align: right;">Page 275</p> <p>1 Q. And are you aware of what 2 red flags were found and are being 3 referenced here? 4 A. I don't know specifically 5 what they found. 6 Q. Do you know generally? 7 A. No. Obviously they saw 8 something that was concerning to them. 9 And after having had this scenario, 10 certainly it looks like they made a 11 change. 12 Q. But you don't know what 13 types of red flags were found? 14 A. Not specifically, no. 15 Q. And not generally either? 16 A. No. I'm not sure exactly 17 what would come up in those scenarios. 18 Q. And -- 19 A. Again, this is -- this is 20 what I'm hearing from them. So it's hard 21 for me to interpret what the customer has 22 determined those red flags could be. 23 Q. And you were aware that the 24 DEA was requesting penalty money from</p>	<p style="text-align: right;">Page 277</p> <p>1 personal financial wealth. I can't 2 speculate on all the reasons that would 3 be. 4 Q. And do you recall the DEA 5 reaching out to you about Sunrise, 6 reaching out to Mallinckrodt about 7 Sunrise? 8 A. I remember circumstances 9 around it. I don't -- I don't believe 10 the DEA reached out to me. 11 Q. But you recall that the DEA 12 reached out to Mallinckrodt, correct? 13 A. I don't know if they reached 14 out directly or -- or if Mallinckrodt 15 reached out to them as a result of 16 information that they identified. I 17 don't know who reached out to who. 18 (Document marked for 19 identification as Exhibit 20 Mallinckrodt-Adams-20.) 21 BY MS. BAIG: 22 Q. Let's have this -- 23 A. I just don't recall. 24 Q. -- document marked as</p>

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1 Exhibit 20.  
 2 A. Okay.  
 3 Q. And this is from Victor  
 4 Borelli. It starts as an e-mail from  
 5 Victor Borelli to Michael Gunning dated  
 6 July 9, 2009. Bates-stamped Mallinckrodt  
 7 0000459331 to 459332.  
 8 And it says Sunrise  
 9 follow-up.  
 10 A. Great, yeah.  
 11 Q. Does this e-mail refresh  
 12 your recollection, do you know what call  
 13 is being discussed in the e-mail from you  
 14 to Victor Borelli and Mike Gunning?  
 15 A. I don't recall the call, no.  
 16 Q. You don't recall anything  
 17 about it?  
 18 A. I don't recall the call  
 19 occurring at all.  
 20 Q. Do you recall the incident?  
 21 A. I recall excerpts from here.  
 22 Such as Victor was in the field with an  
 23 ex-DEA agent, I remember that.  
 24 Q. Do you recall the fact that

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1 Sunrise had retained an ex-DEA agent?  
 2 A. Yes.  
 3 Q. Do you recall who that was?  
 4 A. I don't know. I believe  
 5 from -- from -- there's two names that  
 6 stand out, and I can't remember.  
 7 Q. And do you see you're --  
 8 would you agree that you're sort of  
 9 commending Victor Borelli here where you  
 10 state, "I wanted to follow up on the  
 11 meeting with Karen Harper, Bill Ratliff  
 12 and others regarding the potential issues  
 13 for oxy 30. The initial tenure" --  
 14 excuse me, "tenor of the call relative to  
 15 suspicion and due diligence of Sunrise  
 16 wholesale was quickly diffused by your  
 17 initiative and I want to thank you. The  
 18 information was vital and presentation of  
 19 it was fantastic, not defensive or  
 20 emotional which could be possible given  
 21 the dollars at stake."  
 22 Do you see that?  
 23 A. I do see that.  
 24 Q. Does this suggest to you

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1 that there were -- there was a good  
 2 amount of money at stake with respect to  
 3 the Sunrise issues?  
 4 A. Relatively speaking, it does  
 5 look like there were dollars at stake  
 6 relative to that customer, but it does  
 7 look like this -- this was brought up to  
 8 the appropriate people to have the  
 9 discussion as sales is the eyes and ears  
 10 to the customer.  
 11 Q. So is it your position that  
 12 the -- the salespeople are the -- the  
 13 best people to be monitoring suspicious  
 14 orders?  
 15 A. It would be my opinion and  
 16 it would be my understanding is that, my  
 17 knowledge is that the sales team does not  
 18 review suspicious orders, that there is a  
 19 separate team that does that. And from  
 20 the perspective of if the team that  
 21 reviews or if compliance has questions, I  
 22 believe it's perfectly valid to reach out  
 23 to the sales team and investigate, gain  
 24 information and insights as needed, and

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1 then validate that for themselves if they  
 2 need to.  
 3 Q. And was that the practice at  
 4 Mallinckrodt at the time?  
 5 A. I don't remember any  
 6 specific formal practice.  
 7 But certainly if there's a  
 8 compliance team that is flagging what  
 9 either is -- I think you mentioned the  
 10 word suspicious order, or the words, or  
 11 something along that line. If there is a  
 12 team that does that and they raise up the  
 13 issue, potential questions, it would  
 14 behoove anyone and everyone to respond to  
 15 that, provide as much information to that  
 16 group and so then, that group can make  
 17 the decision as they see fit. Ultimately  
 18 the decision will always fall to the  
 19 compliance group.  
 20 Q. And was it the sales team's  
 21 responsibility to defuse concerns raised  
 22 about suspicious orders?  
 23 A. So I think the word defuse  
 24 is -- is the word of, if there is a

<p style="text-align: right;">Page 282</p> <p>1 conversation to take place to be  2 even-keeled in that, if there are dollars  3 at stake and for an individual  4 compensation, it would be easy to become  5 emotional about that.  6 But in this case, it wasn't  7 defensive, it wasn't emotional about it,  8 but brought a, per my e-mail, a tenor of  9 professionalism to it, is -- is what I'm  10 deriving from this.  11 Q. It would be easy to become  12 emotional because the sales rep also has  13 dollars at stake given that his bonus is  14 tied to his ability to meet sales  15 targets, right?  16 A. That would be easy to do,  17 but that is not what occurred.  18 MR. TSAI: Do you want to  19 take a quick break?  20 MS. BAIG: Sure.  21 THE VIDEOGRAPHER: We're  22 going off record. The time is  23 3:29.  24 (Short break.)</p>	<p style="text-align: right;">Page 284</p> <p>1 what?  2 A. From Bill and Karen as part  3 of the compliance team.  4 Q. So it was released from a  5 suspicious order monitoring hold?  6 A. I don't know the  7 technicality of if it was a peculiar, I  8 think is what came up earlier, or if it  9 was actually a suspicious order. I don't  10 know what level it is. It is just  11 outside of my -- my purview if you will.  12 Q. So you never knew what  13 the -- what the threshold was that was  14 triggering it as a peculiar or suspicious  15 order, correct?  16 A. I don't understand what the  17 threshold is and -- or the algorithm or  18 kind of how it was -- it was  19 characterized, that's correct.  20 Q. And before -- before it's  21 released, did you do a site visit of  22 Sunrise or any of its customers?  23 A. I don't -- I don't recall if  24 I visited them before this or after. As</p>
<p style="text-align: right;">Page 283</p> <p>1 THE VIDEOGRAPHER: We're  2 going back on record. Beginning  3 Media File Number 5. The time is  4 3:43.  5 BY MS. BAIG:  6 Q. All right. Going back to  7 Exhibit 20 for just a moment please.  8 A. Yes.  9 Q. Do you see at the very end  10 of the e-mail from you, you state, "As a  11 result of the information, Sunrise orders  12 will be released per Bill and Karen.  13 Bill will use the information that you  14 provide to dive deeper into reviewing the  15 oxy 30-milligram lot and an audit will be  16 scheduled over the next six weeks with  17 Sunrise."  18 Do you see that?  19 A. I do see that.  20 Q. So ultimately at least with  21 respect to this order, the order was  22 released; is that right?  23 A. It appears to be.  24 Q. And it was released from</p>	<p style="text-align: right;">Page 285</p> <p>1 you can see, it looks like there was  2 going to be a meeting scheduled after. I  3 don't recall if there was one prior to  4 this or not.  5 Q. Okay. But there's no  6 suggestion in here that you had already  7 been to Sunrise to do it -- to a site  8 visit; is that right?  9 A. You can't -- can't -- you  10 can't take that one way or another. I'm  11 not sure.  12 Q. Okay. And you -- but you  13 don't recall doing a site visit at  14 Sunrise before releasing this order, do  15 you?  16 A. Not -- not specifically for  17 this order, no.  18 Q. Do you recall doing a site  19 visit of any of Sunrise's customers  20 before releasing this order?  21 A. No.  22 Q. So there weren't any  23 pictures that you saw of Sunrise or its  24 customers before releasing this order; is</p>



<p style="text-align: right;">Page 286</p> <p>1 that right?</p> <p>2 A. I think from a compliance</p> <p>3 perspective, that's a better question for</p> <p>4 them as far as kind of, again, went</p> <p>5 through training on compliance. Went</p> <p>6 through -- I believe, based on this, I</p> <p>7 went through some training. But as far</p> <p>8 as kind of a requirement, is it a</p> <p>9 requirement of us for our wholesalers,</p> <p>10 distributors, to take a picture there, I</p> <p>11 don't -- I don't know that that was ever</p> <p>12 done. And I don't know if that was a</p> <p>13 recommendation, a guideline or a</p> <p>14 requirement. I just don't know.</p> <p>15 Q. But I'm just asking you if</p> <p>16 you recall seeing any pictures of Sunrise</p> <p>17 or any of its customers before releasing</p> <p>18 this order.</p> <p>19 A. I don't recall seeing a</p> <p>20 picture of any customer.</p> <p>21 Q. Or of Sunrise, correct?</p> <p>22 A. As a customer, they would</p> <p>23 fall into that statement.</p> <p>24 Q. Okay. And do you recall</p>	<p style="text-align: right;">Page 288</p> <p>1 attached the requested reports. The</p> <p>2 first report is all DEA numbers that have</p> <p>3 been shipped product from Sunrise in the</p> <p>4 past 12 months. This second report is a</p> <p>5 chargeback report by DEA and SKU showing</p> <p>6 Sunrise sales as well as other</p> <p>7 wholesalers."</p> <p>8 So do you recall whether or</p> <p>9 not you were the person that requested</p> <p>10 this data regarding Sunrise?</p> <p>11 A. Let me look at it and see</p> <p>12 what the distinction is.</p> <p>13 Okay. I'll see if I can</p> <p>14 decipher it as we go along.</p> <p>15 Q. Do you recall requesting</p> <p>16 this data?</p> <p>17 A. I do not.</p> <p>18 Q. Okay. But you have no</p> <p>19 reason to doubt that you received it,</p> <p>20 given that you were cc'd on this e-mail,</p> <p>21 correct?</p> <p>22 A. That is correct.</p> <p>23 Q. Okay. And does this -- if</p> <p>24 you look at the chart, do you see you</p>
<p style="text-align: right;">Page 287</p> <p>1 reviewing any of the data that would have</p> <p>2 shown the delta between these particular</p> <p>3 orders and -- and the usual orders from</p> <p>4 Sunrise before releasing these orders?</p> <p>5 A. No.</p> <p>6 (Document marked for</p> <p>7 identification as Exhibit</p> <p>8 Mallinckrodt-Adams-21.)</p> <p>9 BY MS. BAIG:</p> <p>10 Q. Let's have this document</p> <p>11 marked as Exhibit 21. And this is an</p> <p>12 e-mail from Lisa Lundergan to Victor</p> <p>13 Borelli, and you and Kate Neely. Subject</p> <p>14 is Sunrise reports, dated July 10, 2009.</p> <p>15 A. I was copied on this. Not</p> <p>16 to. But yes.</p> <p>17 Q. But you received it,</p> <p>18 correct?</p> <p>19 A. Yeah, I think so.</p> <p>20 Q. Okay. And it's</p> <p>21 Bates-stamped Mallinckrodt 0000448872</p> <p>22 through 8874, which is a multi-page</p> <p>23 document.</p> <p>24 And it says, "Please find</p>	<p style="text-align: right;">Page 289</p> <p>1 have in column E, you have a product</p> <p>2 description. In product -- column F you</p> <p>3 have pricing quantity. Column G you have</p> <p>4 net sales. Column C you have Sunrise</p> <p>5 wholesaler. So that's your client here,</p> <p>6 correct?</p> <p>7 A. Correct.</p> <p>8 Q. And then column B you have</p> <p>9 ship to customer name, and that would be</p> <p>10 your customer's customer, meaning</p> <p>11 Sunrise's customer, correct?</p> <p>12 A. That's correct.</p> <p>13 Q. Now, looking at this list,</p> <p>14 does this refresh your recollection that</p> <p>15 Mallinckrodt did actually have data that</p> <p>16 showed its customer's customers including</p> <p>17 not just pharmacies, but also physicians?</p> <p>18 A. So this -- this is data that</p> <p>19 was available. So when you look at this</p> <p>20 and say it's a physician, again from a</p> <p>21 physician, they are still the ones</p> <p>22 determining whether or not it's writing a</p> <p>23 prescription for a legitimate pain</p> <p>24 patient. So...</p>

<p style="text-align: right;">Page 290</p> <p>1 Q. Correct. But Mallinckrodt 2 had access to data with respect to, for 3 example, here, its customer's customers, 4 Sunrise's customers, including 5 physicians, correct? 6 A. Well, it wasn't a full 7 database. You'd have to pull this data 8 together. But it -- you can see that 9 there are physicians and pharmacists 10 listed in this data by product, that's 11 correct. 12 (Document marked for 13 identification as Exhibit 14 Mallinckrodt-Adams-22.) 15 BY MS. BAIG: 16 Q. Let's have this document 17 marked as Exhibit 22 please. This is 18 an -- it starts as an e-mail string from 19 Victor Borelli to you and others. 20 Bates-stamped Mallinckrodt 0000290150 21 through 151. And you'll see the subject 22 is prescription drug abuse epidemic. 23 Do you see that? 24 A. I see that. I don't believe</p>	<p style="text-align: right;">Page 292</p> <p>1 learning that South Florida had become 2 the largest supplier of illegal 3 prescription drugs in the country? 4 A. Not specifically. 5 Q. Generally? 6 A. Florida in general. I think 7 this is South Florida. But Florida in 8 general, as I understood it, was a -- was 9 a higher -- higher use of -- of 10 prescription medications. 11 And I guess from my 12 perspective, obviously Florida has an 13 aging population, and I mean certainly 14 that is a key driver for increased 15 prescriptions. But ultimately this is 16 giving more color around it. 17 Q. Was it -- was it your read 18 of this article that the prescription 19 drug abuse epidemic in Florida was a 20 result of the aging population in 21 Florida? 22 A. I don't recall the article 23 at the time. And so I don't recall what 24 it triggered in my mind.</p>
<p style="text-align: right;">Page 291</p> <p>1 it was Victor who initiated this e-mail 2 chain. 3 Q. Correct. I'm just labeling 4 these documents by the very first e-mail 5 on the chain -- 6 A. Oh. Okay. 7 Q. -- so that if there's any 8 question later -- 9 A. Gotcha. 10 Q. -- we can find the document 11 that is this exhibit. 12 A. Great. Sorry. 13 Q. So do you recall receiving 14 an e-mail about the prescription drug 15 abuse epidemic in or about 2009, July of 16 2009? 17 A. I'm sorry. Not 18 specifically, no. 19 Q. Okay. Do you recall 20 generally? 21 A. I don't remember specific 22 articles or even generally having access 23 to a large number of articles. 24 Q. Okay. Do you recall</p>	<p style="text-align: right;">Page 293</p> <p>1 Q. Well, as you read it now, is 2 it your understanding that the gist of 3 this article is about the aging 4 population in Florida is causing the 5 prescription drug abuse epidemic there? 6 A. I'll take the time to read 7 it. I haven't read it. 8 Q. Okay. 9 A. Thank you. 10 Q. Do you recall understanding 11 at the time that -- that there was an 12 alarming problem facing the country with 13 nearly one in five teens abusing 14 prescription medications? 15 A. I don't remember that at the 16 time. I don't remember it now rather. 17 Q. You don't remember -- you 18 don't remember hearing anything about 19 that at the time? 20 A. Specifically with teens, 21 absolutely not. 22 Q. Generally speaking, do you 23 recall hearing that there was an opioid 24 epidemic?</p>

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1 A. I recall there were issues  
 2 with opioids that would raise the alarm.  
 3 And I guess I'll just call out that the  
 4 illegal aspect of opioids is what was  
 5 causing the problem. The legal component  
 6 of it is where we were practicing and  
 7 filling supply from prescriptions written  
 8 legally by physicians.  
 9 Q. Well, the title of this  
 10 article is "Prescription Drug Abuse  
 11 Epidemic," correct?  
 12 A. Correct.  
 13 Q. So this article is  
 14 specifically about prescription drugs,  
 15 correct?  
 16 A. It is. And I guess I was  
 17 just making the distinction of, there are  
 18 prescription drugs that are -- and  
 19 prescriptions that are filled  
 20 legitimately, and there apparently are  
 21 prescription drugs that are filled  
 22 illegitimately.  
 23 Q. Were you aware that South  
 24 Florida became the largest supplier of

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1 illegal prescription drugs in the  
 2 country?  
 3 A. I think asked and answered.  
 4 South Florida, I didn't recall that it  
 5 was specifically to South Florida. So,  
 6 no, I don't recall that.  
 7 Q. As it states here, "The  
 8 number of pain clinics and doctors  
 9 willing to prescribe these medications  
 10 has made the area the logical choice for  
 11 traffickers and drug addicts looking to  
 12 obtain prescription drugs, including  
 13 powerful painkillers."  
 14 Do you see that?  
 15 A. I do see that.  
 16 Q. And did you understand that  
 17 to be the case at the time?  
 18 A. I don't recall reading this  
 19 article or seeing this article at the  
 20 time. Or I don't recall seeing it.  
 21 Q. Okay. And it goes on to  
 22 state that, "Some pharmacies have hired  
 23 bouncers and lookouts in order to alert  
 24 the owners of the stores to

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1 investigations."  
 2 Do you recall hearing  
 3 anything about that?  
 4 A. I do not.  
 5 Q. It goes on to state, "A lot  
 6 of the mom and pop pharmacies, the only  
 7 way they are surviving is by putting out  
 8 oxycodone, according to Broward Sheriff's  
 9 Office Sergeant Richard Pisanti."  
 10 Do you see that?  
 11 A. I do.  
 12 Q. Do you recall hearing that  
 13 generally at the time?  
 14 A. I don't. It's hard to draw  
 15 a conclusion from one person's opinion.  
 16 But, yes, I see that.  
 17 Q. The Broward County Sheriff's  
 18 opinion you mean?  
 19 A. Yes.  
 20 Q. Was your understanding that  
 21 the problem was not as severe in Florida  
 22 as this article suggests?  
 23 A. No, I didn't say that. I  
 24 just said that I don't recall -- I don't

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1 recall this context. But I think I  
 2 stated earlier that Florida had a high  
 3 volume, if I'm not mistaken. I can look  
 4 back exactly.  
 5 Q. Okay. And the article goes  
 6 on to state, "Statistics show an alarming  
 7 problem facing America."  
 8 Do you see that?  
 9 A. Yes.  
 10 Q. And at the very end, it  
 11 references an interview on the CBS Early  
 12 Show, "National drug control policy  
 13 director Gil Kerlikowske said, 'The issue  
 14 of prescription drug abuse, which the  
 15 Office of National Drug Control Policy  
 16 has been shouting about from the rooftops  
 17 is a significant problem in this  
 18 country.'"  
 19 Do you see that?  
 20 A. I do see that.  
 21 Q. It's not just necessarily  
 22 the opinion of would be person, correct?  
 23 A. I'm referring to a lot of  
 24 the mom and pop pharmacies, the only way

<p style="text-align: right;">Page 298</p> <p>1 they are surviving is putting out  2 oxycodone. I can't speak to mom and pop  3 pharmacies have been challenged -- the  4 independent pharmacies have had  5 challenges across the industry that have  6 been well known because their pricing  7 doesn't tend to be as advantageous as  8 chain pharmacies.</p> <p>9 So to draw a conclusion that  10 mom and pop pharmacies, because of  11 oxycodone output is the way they are  12 surviving, I think is a large leap.</p> <p>13 Q. Is a largely what?  14 A. It's a large leap to make  15 that conclusion.</p> <p>16 Q. Oh, large leap.  17 A. Yes, sorry. Sorry, yeah.</p> <p>18 Q. And do you see Mr. Borelli's  19 response? He states, "This is an  20 interesting article. This is exactly why  21 Sunrise works/hires Lewis Fischer."</p> <p>22 Do you see that?  23 A. I see that, yes.  24 Q. Do you know who Lewis</p>	<p style="text-align: right;">Page 300</p> <p>1 the extent.  2 (Document marked for  3 identification as Exhibit  4 Mallinckrodt-Adams-23.)  5 BY MS. BAIG:  6 Q. We'll have this document  7 marked as Exhibit 23. It's an e-mail  8 that starts with a string from Bill  9 Ratliff on Monday, July 27, 2009. Bottom  10 Bates stamp number is 0000290175 through  11 177.  12 If you turn to the very last  13 page.  14 A. Okay.  15 Q. Do you see that the string  16 starts as e-mail from Paul Kleissle at  17 the DOJ to Bill Ratliff and Karen Harper,  18 correct?  19 A. I do see that, yes.  20 Q. Okay. Bill Ratliff's  21 position again, please?  22 A. I'm not sure. I think we  23 were estimating potentially security,  24 director of security.</p>
<p style="text-align: right;">Page 299</p> <p>1 Fischer is?  2 A. I think there's reference to  3 that. I couldn't recall the name. So I  4 believe he is the ex-DEA agent.  5 Q. And did you understand  6 Victor Borelli to be saying that the  7 prescription drug abuse epidemic was  8 largely why Sunrise works?  9 A. That's not the way I would  10 read this. The way that they are going  11 through is to try and have someone who  12 can do an audit of their customers, so  13 that is their due diligence that they are  14 doing.  15 So hiring an ex-DEA agent to  16 look at pharmacies or to -- whoever is  17 dispensing the product, that is what  18 Sunrise appears to have done.  19 Q. Did you ever interact with  20 Lewis Fischer?  21 A. I did not.  22 Q. Do you know anything about  23 him?  24 A. Ex-DEA agent. And that's</p>	<p style="text-align: right;">Page 301</p> <p>1 Q. Okay. And so the DEA -- DOJ  2 is calling Bill Ratliff and asking him to  3 give him a call regarding the oxy case;  4 is that right?  5 A. That's what it states, yes.  6 Q. Okay. And Bill Ratliff  7 reports to you and others that, "The DEA  8 diversion group supervisor recommended  9 that we audit Sunrise as soon as  10 possible."  11 Do you see that?  12 A. I do see that, yes.  13 Q. Does this refresh your  14 recollection that it was the DOJ that was  15 recommending the audit and not  16 Mallinckrodt?  17 A. No, I didn't recall the DOJ  18 being brought up.  19 Q. Well, the DEA, diversion  20 group of the DOJ, correct?  21 A. I didn't know they were  22 affiliated.  23 Q. Okay. So here -- if you see  24 Paul Kleissle, the initial e-mail is</p>

<p style="text-align: right;">Page 302</p> <p>1 coming from USDOJ.gov, correct?</p> <p>2 A. Correct.</p> <p>3 Q. Okay. And you see that Bill</p> <p>4 Ratliff is reporting, "The DEA diversion</p> <p>5 group supervisor recommended that we</p> <p>6 audit Sunrise as soon as possible."</p> <p>7 Do you see that?</p> <p>8 A. I do.</p> <p>9 Q. So in any event, it was not</p> <p>10 Mallinckrodt that initiated the audit of</p> <p>11 Sunrise. Does this refresh your</p> <p>12 recollection of that fact?</p> <p>13 A. I didn't -- no, it does not</p> <p>14 refresh me on that memory. Now I see it,</p> <p>15 but I didn't know at the time.</p> <p>16 Q. Okay.</p> <p>17 A. Yep.</p> <p>18 Q. Well, you knew it when you</p> <p>19 got this e-mail, though, right?</p> <p>20 A. I didn't recall that I knew</p> <p>21 it at that time.</p> <p>22 Q. Right.</p> <p>23 A. Right.</p> <p>24 Q. Okay.</p>	<p style="text-align: right;">Page 304</p> <p>1 was again what?</p> <p>2 A. Right there, controlled</p> <p>3 substance compliance, global logistics</p> <p>4 manager, Covidien Mallinckrodt.</p> <p>5 Q. So does this suggest to you</p> <p>6 that, at least at that point in time,</p> <p>7 Mallinckrodt was not using the chargeback</p> <p>8 system on a regular basis for suspicious</p> <p>9 order monitoring, the fact that she</p> <p>10 doesn't know anything about the</p> <p>11 chargeback system?</p> <p>12 A. I -- I think --</p> <p>13 MR. TSAI: Object to form.</p> <p>14 Go ahead.</p> <p>15 THE WITNESS: I can't</p> <p>16 speculate on what Karen's thought</p> <p>17 process was there.</p> <p>18 BY MS. BAIG:</p> <p>19 Q. Okay. But she does state</p> <p>20 here, "I don't know anything about the</p> <p>21 chargeback system," correct?</p> <p>22 A. She does indicate that. So</p> <p>23 I think we all have our areas of</p> <p>24 expertise. So I can speak to</p>
<p style="text-align: right;">Page 303</p> <p>1 A. I think I went on to state,</p> <p>2 "We'll make this a priority."</p> <p>3 So I think obviously we're</p> <p>4 going to take it seriously. I think</p> <p>5 that's -- the whole process is designed</p> <p>6 to do that, is to make sure that we can</p> <p>7 take that up to the compliance -- the</p> <p>8 level of review that's required from a</p> <p>9 compliance perspective.</p> <p>10 Q. And Karen Harper suggests</p> <p>11 that we keep -- "The scope of the review</p> <p>12 will be at a fairly high security and</p> <p>13 compliance level."</p> <p>14 Do you see that?</p> <p>15 A. Yes, I see that.</p> <p>16 Q. And she goes on to state</p> <p>17 that, "I don't know anything about the</p> <p>18 chargeback system, which is how we</p> <p>19 detected which physicians/pain clinics</p> <p>20 are receiving our product through</p> <p>21 Sunrise."</p> <p>22 Do you see that?</p> <p>23 A. I do see that.</p> <p>24 Q. And Karen Harper's position</p>	<p style="text-align: right;">Page 305</p> <p>1 chargebacks. And she can speak to</p> <p>2 compliance. So I think from an expertise</p> <p>3 perspective, this makes sense that this</p> <p>4 is not a deep level awareness for her.</p> <p>5 Q. Okay. And you can speak to</p> <p>6 chargebacks, but you're not aware, are</p> <p>7 you, of the chargeback system being used</p> <p>8 on a regular basis as part of the</p> <p>9 suspicious order monitoring process?</p> <p>10 A. I don't know. I didn't know</p> <p>11 if that was part of the suspicious order</p> <p>12 monitoring process.</p> <p>13 So, I don't have awareness</p> <p>14 that that was an integral part or a part.</p> <p>15 Q. You don't know one way or</p> <p>16 another?</p> <p>17 A. I don't. They had their own</p> <p>18 algorithms that compliance developed.</p> <p>19 And they had their methods in which they</p> <p>20 tracked and did what they needed to do in</p> <p>21 compliance with that program.</p> <p>22 (Document marked for</p> <p>23 identification as Exhibit</p> <p>24 Mallinckrodt-Adams-24.)</p>



<p style="text-align: right;">Page 306</p> <p>1 BY MS. BAIG:</p> <p>2 Q. Let's have this document</p> <p>3 marked as Exhibit 24.</p> <p>4 A. Okay.</p> <p>5 Q. This is a document that</p> <p>6 begins with an e-mail from Victor Borelli</p> <p>7 to Bill Ratliff, you and others. Dated</p> <p>8 August 4, 2009, Bates-stamped</p> <p>9 Mallinckrodt 0000562325 through 2329.</p> <p>10 Do you recall generally an</p> <p>11 issue arising regarding Florida</p> <p>12 medication going into Tennessee?</p> <p>13 A. Hold on one moment if I</p> <p>14 could. Sorry, this is a lengthy one. I</p> <p>15 just want to make sure I can go through</p> <p>16 this.</p> <p>17 MS. BAIG: Sure. We can go</p> <p>18 off the record.</p> <p>19 THE VIDEOGRAPHER: Going off</p> <p>20 the record. The time is 4:08.</p> <p>21 (Brief pause.)</p> <p>22 THE VIDEOGRAPHER: We are</p> <p>23 going back on record. Beginning</p> <p>24 of Media File Number 6. The time</p>	<p style="text-align: right;">Page 308</p> <p>1 raised. I think you mentioned</p> <p>2 medications. If I'm not mistaken, this</p> <p>3 is isolated to one medication and a small</p> <p>4 amount. But yes, I do remember this</p> <p>5 being raised.</p> <p>6 Q. And -- and he states in this</p> <p>7 second paragraph, "In October 2008,"</p> <p>8 that's the general time frame, he goes on</p> <p>9 to state, "My first eye-opening</p> <p>10 experience to the pharmaceutical sale of</p> <p>11 oxycodone sent me off into the direction</p> <p>12 of looking at the pharmacies that were</p> <p>13 filling the scripts. It was then that I</p> <p>14 found that we were dealing with several</p> <p>15 pain clinics in Florida where doctors</p> <p>16 were prescribing an abundant amount of</p> <p>17 oxycodone medication to numerous</p> <p>18 Tennesseans, especially within the</p> <p>19 jurisdiction that I'm assigned."</p> <p>20 Do you see that?</p> <p>21 A. I do see that.</p> <p>22 Q. He's not referencing a very</p> <p>23 small amount. He's referencing an</p> <p>24 abundant amount, correct?</p>
<p style="text-align: right;">Page 307</p> <p>1 is 4:10.</p> <p>2 BY MS. BAIG:</p> <p>3 Q. Okay. If you turn back</p> <p>4 towards -- towards the end of the string.</p> <p>5 So starting at the beginning.</p> <p>6 A. Okay.</p> <p>7 Q. Do you see that there's an</p> <p>8 e-mail from Dwayne Collins to Bill</p> <p>9 Ratliff, subject, Florida medication</p> <p>10 coming into Tennessee?</p> <p>11 A. I do see that, yes.</p> <p>12 Q. And Dwayne Collins, his</p> <p>13 e-mail address is at mymorristown.com.</p> <p>14 Do you see that?</p> <p>15 A. I do, yes.</p> <p>16 Q. And he describes himself as</p> <p>17 writing from the Morristown, Tennessee,</p> <p>18 police department, correct?</p> <p>19 A. Correct.</p> <p>20 Q. Okay. And he's raising an</p> <p>21 issue about Mallinckrodt medications</p> <p>22 coming from Florida to Tennessee. Do you</p> <p>23 recall this issue being raised?</p> <p>24 A. I recall the issue being</p>	<p style="text-align: right;">Page 309</p> <p>1 A. That's an ambiguous term as</p> <p>2 far as abundant. But, you know, I guess</p> <p>3 to prescribe it to Tennesseans in October</p> <p>4 of 2008, perhaps there's people going</p> <p>5 down for the wintertime. I don't know,</p> <p>6 but certainly I'll take your word for it.</p> <p>7 Q. But I'm just reading his</p> <p>8 words. He uses an -- he's describing an</p> <p>9 "abundant amount of oxycodone medications</p> <p>10 to numerous Tennesseans," correct?</p> <p>11 A. Yep.</p> <p>12 Q. And he -- a little further</p> <p>13 on, he says, "I have three individuals</p> <p>14 who are coming up out of Florida on a</p> <p>15 regular basis and selling massive amounts</p> <p>16 of oxycodone 30 -- 30 milligrams."</p> <p>17 Do you see that?</p> <p>18 A. I'm not sure where you are</p> <p>19 at yet.</p> <p>20 Q. I'm right in the middle</p> <p>21 of --</p> <p>22 A. I see.</p> <p>23 Q. -- his third paragraph.</p> <p>24 A. I see that, yes.</p>

<p style="text-align: right;">Page 310</p> <p>1 Q. Okay. So he's talking, at 2 least from his perspective, about massive 3 amounts of oxycodone 30 milligrams, 4 correct? 5 A. Yep. 6 Q. Okay. 7 A. I'm not sure what massive 8 is, but yes. 9 Q. Okay. The next paragraph he 10 goes on to state, in the second sentence, 11 "One of the individuals from Florida who 12 has local ties here told my informant 13 that they would be in Morristown on the 14 18th of this month and had enough, 15 (meaning oxycodone 30 milligrams) to OD 16 all of Morristown. This comment leads me 17 to believe that they are coming with a 18 sizable shipment." 19 Do you see that? 20 A. I do see that. 21 Q. Okay. So "enough to OD all 22 of Morristown" is certainly, at least 23 from his perspective, sizable, correct? 24 A. Correct.</p>	<p style="text-align: right;">Page 312</p> <p>1 lot number. Do you see that? 2 A. I do see that, yes. 3 Q. Okay. And then he is 4 essentially asking for help. "I 5 appreciate your help, and if there is any 6 further information you need from me, 7 please call me." 8 Do you see that? 9 A. Yes. 10 Q. Okay. So Mallinckrodt was 11 then able to identify that batch by the 12 lot number. Do you -- is that your 13 recollection or do you understand that? 14 A. That's what it looks like, 15 correct. 16 Q. Okay. And Mallinckrodt was 17 also able to identify the doctor, do you 18 see that? 19 A. Where are you referring to, 20 I'm sorry? 21 Q. I'm looking at Bill 22 Ratliff's e-mail. So the prior page, the 23 page that ends in 327. And Bill Ratliff 24 sends to Dwayne Collins in Morristown an</p>
<p style="text-align: right;">Page 311</p> <p>1 Q. Okay. If you skip down a 2 couple of paragraphs, you'll see he goes 3 on to state, "My motel subpoena indicated 4 that these people were in this area 5 routinely beginning since March 2009 and 6 it is my opinion that if these people 7 were coming into this area as often as 8 they were and selling the amount that's 9 suspected, this possibly has to lead back 10 to a holding facility in Florida where 11 the amount taken is not as obvious as 12 would be if taken out of a pharmacy." 13 Do you see that? 14 A. I do see that. 15 Q. And then he goes on to 16 describe the bottle, and he states, 17 "Small white bottle without pharmacy 18 label. 100-tablet capacity. CI's advise 19 that the silver foil is still intact when 20 the cap is unscrewed." 21 And then he goes on to 22 state, "Oxycodone hydrochloride 23 manufactured by Mallinckrodt." 24 And he gives a barcode and a</p>	<p style="text-align: right;">Page 313</p> <p>1 e-mail that states, "Dwayne, the doctor 2 we discussed ordered the following during 3 the last 12 months: 78 bottles oxy 4 15 milligrams, 204 oxy 30 milligrams, 20 5 methadone 10 milligrams, and 4 6 hydromorphone. All came from the 7 customer we discussed except the 8 hydromorphone." 9 Do you see that? 10 A. I do see that. 11 Q. Okay. So is it your 12 understanding that Mallinckrodt was able 13 to identify precisely the doctor that had 14 ordered the -- the drugs that are being 15 raised as suspicious by Dwayne Collins? 16 MR. TSAI: Object to form. 17 Go ahead. 18 THE WITNESS: It was -- they 19 were able to based on the name of 20 the doctor being provided. They 21 certainly could go back and look 22 at that to identify that 23 information. 24 BY MS. BAIG:</p>

<p style="text-align: right;">Page 314</p> <p>1 Q. And if you go a little bit 2 further up in the chain, if you're 3 looking at the e-mail from Bill Ratliff 4 to Tim Wright and others, you'll see Bill 5 Ratliff states, "We advised that Sunrise 6 Wholesale Inc. was the only distributor 7 residing in Florida that received this 8 lot." 9 Do you see that? 10 A. I do see that. 11 Q. "In addition, we advised 12 that Cardinal Health in Ohio has a 13 distribution center in Florida and had 14 received some of the lot, but the doctor 15 listed on one of the 100-count bottles 16 that was recovered only purchased oxy 17 from Sunrise." 18 And then a little -- then it 19 goes on. "For background, Sunrise sells 20 mainly to pain clinics and to dispensing 21 doctors. One doctor was identified by an 22 empty 100-count bottle found by one of 23 the two informants in the investigation. 24 We tracked the doctor's purchases through</p>	<p style="text-align: right;">Page 316</p> <p>1 Lewis explained how he made the decision 2 on future customers for Sunrise. 3 "Also Sunrise was recently 4 audited by the DEA and no issues were 5 identified. 6 "During the teleconference a 7 \$500,000 check was received from Sunrise 8 through FedEx. After reviewing all of 9 the facts it was determined to continue 10 with the relationship with Sunrise and 11 fill their current order." 12 Do you see that? 13 A. I do see that. Yes. 14 Q. So does this -- is it your 15 understanding that -- that essentially 16 Mallinckrodt made the decision to fill -- 17 continue filling Sunrise's current order? 18 A. Yes, it appears as if they 19 did fill the order, and it appears that, 20 you know, based on the look of kind of 21 going through this information now -- so 22 it's good to have the context of the 23 number of bottles written by this 24 physician. What you don't know is how</p>
<p style="text-align: right;">Page 315</p> <p>1 our chargeback system. See below." 2 Do you see that? 3 A. I do see that, yes. 4 Q. Okay. And then a little 5 further down it states, "Initially I 6 recommended that we stop shipping to 7 Sunrise until a meeting could be held to 8 discuss our due diligence with them. 9 This is part of our suspicious order 10 monitoring system mandated by DEA. Since 11 Sunrise was having some credit issues, 12 this was not a problem." 13 And then it goes on a little 14 further down, "It was determined that 15 Victor Borelli had visited Sunrise when 16 they became a customer, approximately 17 18 months ago. Originally they purchased 18 their material from Masters distribution, 19 another customer. Also Victor advised 20 that Sunrise employed a part-time 21 contract employee Lewis Fischer, former 22 DEA pharmacist, to contact customers to 23 determine if they were legitimate. 24 Victor actually rode with Lewis and me.</p>	<p style="text-align: right;">Page 317</p> <p>1 many of those -- basically where their 2 proximity was. Was his proximity close 3 to an oncology clinic? Kind of how that 4 all type of usage was transformed or 5 what -- what in the context of it was 6 important. 7 What was interesting here, 8 though, was that DEA did audit them. And 9 the DEA went through, and I think we go 10 on further to say that they complimented 11 Covidien on the fact that they'd acted in 12 a responsible way and the DEA saw no 13 issues with regard to this matter. So I 14 think it's -- and went on further to 15 compliment Covidien for that process. 16 So I think those are all 17 good points that kind of show that the 18 system is alerting people. But again, 19 when it comes down to compliance, they 20 can determine, based on all the facts in 21 front of them, on what to take as -- you 22 know, what step is appropriate. 23 Q. And is it your understanding 24 that the DEA did the audit or the DEA</p>

<p style="text-align: right;">Page 318</p> <p>1 asked Mallinckrodt to do the audit and  2 Mallinckrodt performed the audit?  3 A. I'll read it again.  4 "Sunrise was recently audited by the  5 DEA."  6 So the DEA audited them, and  7 no issues were identified.  8 So yeah, the DEA did the  9 audit prior to this scenario all coming  10 up and found that -- found no issues.  11 Q. Do you have a recollection  12 of that or are you just reading that from  13 the e-mail?  14 A. I'm reading that from the  15 e-mail.  16 Q. Okay. Do you have a  17 recollection of the DEA asking, from the  18 documents we looked at a few minutes ago,  19 the DEA asking Mallinckrodt to perform  20 the audit?  21 A. No, I don't recall that.  22 Q. Okay. And you don't have  23 any recollection of the audit that was  24 performed?</p>	<p style="text-align: right;">Page 320</p> <p>1 August 26, 2009. Bates-stamped  2 Mallinckrodt_000388379 through 386.  3 And Karen Harper's title  4 identified here is controlled substance  5 compliance, global logistics manager from  6 Mallinckrodt, is sending "Sunrise audit  7 report draft."  8 Do you see that?  9 A. I do.  10 Q. Okay. And if you turn to  11 the next page, you'll see that it starts  12 with the controlled substance compliance  13 suspicious order monitoring customer  14 audit checklist.  15 Do you see that?  16 A. I do see that, yes.  17 Q. Okay. And there are certain  18 items filled in on the checklist. If you  19 look through Section 2, for example,  20 well, the customer name is identified at  21 the top. And if you look at the first  22 box in Section 2, you see, "Ordering  23 excessive quantities of a limited variety  24 of controlled substances while ordering</p>
<p style="text-align: right;">Page 319</p> <p>1 A. By the DEA, no.  2 Q. By Mallinckrodt, at the  3 DEA's request.  4 A. I remember scheduling this  5 appointment, and I don't remember the  6 specifics of traveling down there. But I  7 see they've asked for appointments to be  8 set up. So it's part of the reading  9 through here. So that's what I recall  10 from the reading.  11 Q. Do you remember  12 participating in an audit of Sunrise?  13 A. I remember going to a  14 meeting. But I don't remember it  15 specifically being an audit.  16 Q. Okay.  17 (Document marked for  18 identification as Exhibit  19 Mallinckrodt-Adams-25.)  20 BY MS. BAIG:  21 Q. Okay. Let's have this  22 marked as Exhibit 25. This is a document  23 that starts as an e-mail from Karen  24 Harper to you and others, dated</p>	<p style="text-align: right;">Page 321</p> <p>1 few if any other drug." And that box is  2 checked yes.  3 Do you see that?  4 A. I do see that.  5 Q. Oh, and also at the top of  6 this page it says, "Checklist completed  7 by Karen Harper."  8 Do you see that?  9 A. I do see that, yes.  10 Q. Okay. And then the next box  11 says, "Ordering a limited variety of  12 controlled substances in quantities  13 disproportionate to the quantity of  14 noncontrolled medications ordered." And  15 that check box is marked yes as well.  16 Do you see that?  17 A. I do see that.  18 Q. Do you know what a lifestyle  19 drug is?  20 A. I know of an example of a  21 lifestyle drug, I guess. So yes, I can  22 piece that together.  23 Q. Did you ever hear any opioid  24 products being referred to as lifestyle</p>

<p style="text-align: right;">Page 322</p> <p>1 drugs?</p> <p>2 A. No, I'm not familiar with</p> <p>3 that. I just don't recall that</p> <p>4 terminology.</p> <p>5 Q. And do you see in Section 3,</p> <p>6 it states at the top, on the next page,</p> <p>7 "Per DEA, a distributor seeking to</p> <p>8 determine whether a suspicious order is</p> <p>9 indicative of controlled substance</p> <p>10 diversion to other than legitimate</p> <p>11 medical channels may wish to inquire of</p> <p>12 the ordering pharmacy about the</p> <p>13 following: Has the audit candidate</p> <p>14 exercised due diligence and determined:"</p> <p>15 And then there's a number of</p> <p>16 items to be checked.</p> <p>17 Do you see that?</p> <p>18 A. I do see that.</p> <p>19 Q. And for example, the first</p> <p>20 one checked yes states, "The physician</p> <p>21 complies with the laws of every state in</p> <p>22 which controlled substances are sold or</p> <p>23 shipped." And it states yes.</p> <p>24 Do you see that?</p>	<p style="text-align: right;">Page 324</p> <p>1 she's the one that is checking these</p> <p>2 boxes, correct?</p> <p>3 A. Yes. Karen -- Karen would</p> <p>4 be the one to fill this out.</p> <p>5 Q. Okay. A couple boxes down</p> <p>6 it states, "Is there any evidence the</p> <p>7 physician offers to sell controlled</p> <p>8 substances without a prescription?"</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. And that box is checked yes,</p> <p>12 correct?</p> <p>13 A. Correct.</p> <p>14 My interpretation of this</p> <p>15 is --</p> <p>16 Q. I just have a few more</p> <p>17 questions. Hang on.</p> <p>18 A. Oh, sure.</p> <p>19 Q. And I'll let you opine.</p> <p>20 A. Okay.</p> <p>21 Q. If you look then to the --</p> <p>22 to the back of this checklist, there's a</p> <p>23 narrative.</p> <p>24 Do you see that?</p>
<p style="text-align: right;">Page 323</p> <p>1 A. I do see that.</p> <p>2 Q. And the next one says, "Does</p> <p>3 the physician solicit buyers of</p> <p>4 controlled substances via the internet or</p> <p>5 is the subject company affiliated with an</p> <p>6 internet site that solicits orders for</p> <p>7 controlled substances?" And it's checked</p> <p>8 yes.</p> <p>9 Do you see that?</p> <p>10 A. I do.</p> <p>11 Q. And a couple -- a couple</p> <p>12 boxes down, it says, "Does the subject</p> <p>13 company fill prescriptions issued by</p> <p>14 practitioners based solely on an online</p> <p>15 questionnaire without a medical</p> <p>16 examination or bona fide doctor-patient</p> <p>17 relationship."</p> <p>18 Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. And that's checked yes,</p> <p>21 correct?</p> <p>22 A. Correct.</p> <p>23 Q. So your understanding is</p> <p>24 after Karen Harper looked at Sunrise,</p>	<p style="text-align: right;">Page 325</p> <p>1 A. I see where it starts, yes.</p> <p>2 Q. It states under general</p> <p>3 information, "Sunrise business model is</p> <p>4 to pre-book sales in advance and order</p> <p>5 from dosage manufacturers such as</p> <p>6 Mallinckrodt."</p> <p>7 Do you see that?</p> <p>8 A. I do see that.</p> <p>9 Q. Do you see a little further</p> <p>10 down it states, "Sunrise accepts orders</p> <p>11 for C-II controlled substances and has</p> <p>12 made the business decision to avoid</p> <p>13 distribution of C-III and C-IV products</p> <p>14 due to potential internet sales and</p> <p>15 increased diversion risk of C-III and</p> <p>16 C-IV products."</p> <p>17 Do you see that?</p> <p>18 A. I do see that.</p> <p>19 Q. Is it your understanding</p> <p>20 that there was more diversion risk for</p> <p>21 C-III and C-IV products than there was</p> <p>22 for C-II products?</p> <p>23 A. I would interpret this as</p> <p>24 it's not necessarily C-III and C-IV, as</p>



<p style="text-align: right;">Page 326</p> <p>1 opposed to internet sales is what has the 2 higher propensity for diversion. So it's 3 not the fact that it's classified one way 4 or the other. It's just that the 5 internet sales would raise the potential 6 issue. 7 Q. Do you see two pages over 8 there's a heading that starts, "Sunrise 9 customer files and DEA 222 forms 10 reviewed"? 11 A. Yes. 12 Q. And there are a number of 13 items following, numbered. 14 Do you see those? 15 A. I do see that. 16 Q. And Item 4 identifies Barry 17 Schultz. 18 Do you see that? 19 A. I see the name, yes. 20 Q. And it states, "Within this 21 customer's file, there was both a formal 22 questionnaire filled out by Lewis Fischer 23 as well as recent 222 forms with orders 24 attached. This customer had 222 orders</p>	<p style="text-align: right;">Page 328</p> <p>1 A. I am not. 2 Q. Okay. Do you see on the 3 very last page there is a section 4 entitled "Mallinckrodt information shared 5 with Sunrise"? 6 A. Yes. 7 Q. And it states, "John Adams 8 showed Sunrise some graphs depicting 9 oxycodone 30 milligrams customer 10 distribution" -- "distribution 11 information extracted from the 12 Mallinckrodt chargeback system." 13 Do you recall doing this? 14 A. I don't recall doing that, 15 no. 16 Q. You don't recall doing 17 anything about pulling the graphs or 18 shows the graphs at Sunrise? 19 A. No. I certainly wouldn't 20 have pulled the graphs. Someone else 21 would have done that for me. 22 As far as even sharing those 23 graphs, A, I don't remember them, and B, 24 I don't remember sharing them.</p>
<p style="text-align: right;">Page 327</p> <p>1 for 100 bottles of oxy 30 milligrams, but 2 Sunrise shipped them 24 bottles and 3 closed down the order. This may have 4 been done due to the tiered system of 5 ordering that Carlos Veron had been 6 referring to during today's meetings." 7 Do you see that? 8 A. I do see that. 9 Q. And this would have been 10 written by Karen Harper, correct? 11 A. I believe she wrote the 12 entire report. 13 Q. Okay. Are you familiar with 14 who Barry Schultz is? 15 A. It doesn't ring a bell, no. 16 Q. You haven't heard his name? 17 A. No. It appears to be -- no. 18 It doesn't sound familiar to me. 19 Q. Did you happen to see the 20 60 Minutes episode on Mallinckrodt that 21 came out in the last few months? 22 A. I have not. 23 Q. Were you aware that Barry 24 Schultz is now in jail?</p>	<p style="text-align: right;">Page 329</p> <p>1 Q. And it goes on to state, 2 "The chargeback system gives Mallinckrodt 3 visibility to which end user customer is 4 purchasing oxycodone 30 milligrams, from 5 which Mallinckrodt wholesaler/distributor 6 customers." 7 Do you see that? 8 A. I do see that, yes. 9 Q. And then the example that's 10 given a little bit further down the page 11 states, "The Mallinckrodt chargeback 12 system can identify that customer A 13 purchases 11 percent of their oxycodone 14 30 milligrams from Sunrise and customer A 15 also purchases 89 percent of their 16 oxycodone 30 milligrams from other 17 Mallinckrodt wholesaler/distributor 18 customers such as HD Smith." 19 Do you see that? 20 A. I do see that. 21 Q. So all of that was, at least 22 according to this, available in your 23 chargeback data, correct? 24 A. It appears so.</p>

<p style="text-align: right;">Page 330</p> <p>1 Q. And the audit findings at 2 the bottom. Do you see that?</p> <p>3 A. Just in that same section. 4 It appears as if we can see what we saw, 5 but we don't know what that customer 6 purchased from others. So you have 7 visibility of what you've done, but -- 8 and you don't know exactly if that 9 pharmacy is affiliated with an oncology 10 clinic or if there's any specific type of 11 information. So this is one slice. The 12 only place where that information is all 13 aggregated is at DEA.</p> <p>14 Q. Do you know whether 15 Masters -- whether Sunrise was affiliated 16 with an oncology clinic?</p> <p>17 A. Sunrise would not be. What 18 I'm referring to is who would buy from 19 Sunrise. So the chargeback data would 20 show that particular pharmacy or in this 21 case potentially a physician. It would 22 show their usage, but it wouldn't show 23 their proximity to a clinic. So it 24 wouldn't be Sunrise, it would be that.</p>	<p style="text-align: right;">Page 332</p> <p>1 So from the end user, end 2 user is a -- is a pharmacy, it is not a 3 patient. Or it is a physician who can 4 prescribe but it is not a patient. So it 5 is not -- you can't determine -- you 6 can't determine if that physician wrote 7 that product, what type of patient. 8 There's patient laws regarding patient 9 confidentiality. You can't have that 10 information. It's not available.</p> <p>11 Q. But you can certainly 12 determine how many prescriptions that 13 Mr. Barry Schultz is writing?</p> <p>14 A. No, that's not true. You 15 don't know --</p> <p>16 Q. Well, you can -- okay. 17 Well, you can determine how many orders 18 Barry Schultz is essentially purchasing?</p> <p>19 A. You can determine that, but 20 you -- by determining that, it doesn't 21 tell you the full context of what type of 22 practice, is that physician an 23 oncologist, is that physician next to a 24 pain clinic or affiliated, is it a pain</p>
<p style="text-align: right;">Page 331</p> <p>1 And -- and maybe I'm going 2 to define end user customer, because that 3 sounds like a patient. It is not. An 4 end user customer is a pharmacy. 5 Anything that happens from the pharmacy 6 prior to that point is a physician 7 writing a prescription. And that 8 prescription then being filled by a 9 pharmacy. The pharmacy is defined as an 10 end user customer in this context.</p> <p>11 Q. Well, not necessarily, 12 because Barry Schultz is identified in 13 this report and he's not a pharmacy.</p> <p>14 A. No, but he is a dispensing 15 physician.</p> <p>16 Q. Sure.</p> <p>17 A. So he can write a 18 prescription if he deems the patient to 19 have legitimate pain, so he can 20 legitimately and legally write that 21 prescription and then that could be 22 filled by that same person. That is a 23 legal method, at least it was at that 24 point.</p>	<p style="text-align: right;">Page 333</p> <p>1 clinic. You don't know that context from 2 chargeback data.</p> <p>3 Q. No, but you could -- you 4 could look it up if you wanted to, right?</p> <p>5 A. I don't know. I -- if you 6 can pick up the Yellow Pages and find 7 something like that out, I'm not sure.</p> <p>8 Q. And the audit findings here 9 was that Sunrise has systems in place to 10 maintain a suspicious order monitoring 11 program that meets the guidelines 12 outlined in C.F.R. 21 1301.74.</p> <p>13 Do you see that?</p> <p>14 A. I do see that, yes.</p> <p>15 Q. And it goes on to state, 16 "There were no adverse audit findings as 17 a result of the Sunrise customer files 18 and DEA 222 forms reviewed."</p> <p>19 Do you see that?</p> <p>20 A. I do see that.</p> <p>21 Q. Okay.</p> <p>22 A. I know there's a part that, 23 to use your word opine. If I could go 24 back to that?</p>

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1 Q. You know what, why don't we  
2 save that for the end. Because I'm just  
3 worried that we're running out of time.  
4 A. Fair enough. Fair enough.  
5 Q. Each one of these documents  
6 is so many pages long, and I -- I know  
7 people are trying to get out of here.  
8 A. I know. I'm trying to read  
9 and keep up with that. I understand that  
10 as well.  
11 Q. Have you ever heard of Cares  
12 Alliance?  
13 A. Cares Alliance does not ring  
14 a bell.  
15 (Document marked for  
16 identification as Exhibit  
17 Mallinckrodt-Adams-26.)  
18 BY MS. BAIG:  
19 Q. Let's have this document  
20 marked as Number 26.  
21 A. Thank you.  
22 Q. This document starts as an  
23 e-mail from Gretta Turner to Jennifer  
24 Lierman and Art Morelli, Bates-stamped

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1 Mallinckrodt 0007094264 through 4294,  
2 with the subject Morelli CA NSM  
3 presentation short version.  
4 Do you see that?  
5 A. I do see that, yes.  
6 Q. And do you know who Arthur  
7 Morelli is?  
8 A. It does not -- does not  
9 sound familiar to me. So I don't recall.  
10 Q. And you don't know what  
11 Cares Alliance is?  
12 A. I don't recall that.  
13 Q. If you flip through this  
14 PowerPoint presentation a little bit,  
15 we'll see if it refreshes your  
16 recollection.  
17 For the record, the title of  
18 the PowerPoint is "Safe and Appropriate  
19 Use of Opioids," by Herbert Neuman, M.D.,  
20 chief medical officer and vice president  
21 of medical affairs, and Arthur Morelli,  
22 VP medical affairs operations for REMS,  
23 and then medical affairs.  
24 Do you know either of those

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1 people?  
2 A. I don't. I don't recall  
3 them. Herb Neuman sounds -- or Herbert  
4 Neuman sounds familiar, but I can't place  
5 him.  
6 Q. Do you know who Gretta  
7 Turner is?  
8 A. I think we ran -- had an  
9 e-mail from Gretta in the past --  
10 Q. Medical affairs department,  
11 according -- according to the first page  
12 of this document.  
13 A. Okay.  
14 Q. But you don't recall her?  
15 A. I don't recall.  
16 Q. How about Jennifer Lierman?  
17 A. I recall the name and I  
18 recall the face. I don't recall the  
19 responsibility or the title or, you know,  
20 where she was at in the organization.  
21 Q. Okay. And do you see there  
22 are a number of stats in this report  
23 looking at, for example, about the third  
24 page in, I think -- the fourth page in --

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1 misuse, abuse, and addiction.  
2 Do you see that?  
3 A. I see that slide.  
4 Q. Okay. And then the next  
5 slide is source of abuse of prescription  
6 opioids. Do you recall seeing stats like  
7 this before?  
8 A. I don't recall seeing stats  
9 like this. I -- I do see this was  
10 regarding a branded product.  
11 Q. Where do you see that?  
12 A. On the page entitled Agenda,  
13 Exalgo, which was again a branded  
14 product. But I don't know if it was  
15 there when I was there. I just remember  
16 hearing the name. But that was a  
17 different division within Mallinckrodt.  
18 Q. Well, it's unclear whether  
19 the entire agenda is about Exalgo, or  
20 whether the one, two, three, the fourth  
21 item on the agenda is about Exalgo,  
22 right?  
23 A. Fair enough. It -- yeah,  
24 it's certainly unclear to me because I

<p style="text-align: right;">Page 338</p> <p>1 don't have any recollection of it.</p> <p>2 Q. And if you go to the next</p> <p>3 page after the agenda, you see</p> <p>4 the introduction?</p> <p>5 A. I -- I can see what, I'm</p> <p>6 sorry?</p> <p>7 Q. The introduction?</p> <p>8 A. Yes.</p> <p>9 Q. And do you see on the</p> <p>10 introduction there's a reference to the</p> <p>11 American Pain Society and the American</p> <p>12 Academy of Pain Medicine?</p> <p>13 A. I do see that reference.</p> <p>14 Q. Do you recall if</p> <p>15 Mallinckrodt had any interaction with the</p> <p>16 American Pain Society and the American</p> <p>17 Academy of Pain Medicine when you were</p> <p>18 there?</p> <p>19 A. I don't recall. Certainly</p> <p>20 we weren't affiliated from a generics</p> <p>21 perspective that I'm aware of with any</p> <p>22 society such as these.</p> <p>23 Q. When you say from a generics</p> <p>24 perspective, was Mallinckrodt affiliated</p>	<p style="text-align: right;">Page 340</p> <p>1 Q. Or contributed to the</p> <p>2 funding for the writing of that book?</p> <p>3 A. I don't recall.</p> <p>4 Q. Would you have been involved</p> <p>5 in that, if Mallinckrodt did in fact</p> <p>6 contribute?</p> <p>7 A. I don't recall. Again I</p> <p>8 don't have any knowledge of this, so I</p> <p>9 don't recall any sort of interaction with</p> <p>10 regards to it. Oh, this was almost a</p> <p>11 year after I left Mallinckrodt. This was</p> <p>12 from March of 2011. I left in the spring</p> <p>13 of 2010. So I apologize for my -- I</p> <p>14 literally was having a strong gap there.</p> <p>15 Q. Okay. My understanding is</p> <p>16 this was pulled from your custodial</p> <p>17 files. I don't know. Maybe it's because</p> <p>18 there is a reference to John Quincy Adams</p> <p>19 in there. I just noticed that. I mean,</p> <p>20 maybe that's why.</p> <p>21 But in any event, you have</p> <p>22 not seen this document before?</p> <p>23 A. No.</p> <p>24 Q. Okay. To your knowledge,</p>
<p style="text-align: right;">Page 339</p> <p>1 in any perspective with the American Pain</p> <p>2 Society or the American Academy of Pain</p> <p>3 Medicine to your knowledge?</p> <p>4 A. I don't know. I don't</p> <p>5 recall any -- and context there.</p> <p>6 Q. And do you see at the bottom</p> <p>7 there's a reference to S.M. Fishman,</p> <p>8 and --</p> <p>9 A. I see that.</p> <p>10 Q. Who I'm assuming is Scott</p> <p>11 Fishman who is the author of the book,</p> <p>12 "Responsible opioid prescribing: A</p> <p>13 decisions guide."</p> <p>14 Do you see that?</p> <p>15 A. I do see that.</p> <p>16 Q. And do you know if</p> <p>17 Mallinckrodt had any interaction with</p> <p>18 Scott Fishman?</p> <p>19 A. I don't recall any reference</p> <p>20 to the name or to the person.</p> <p>21 Q. And do you know if</p> <p>22 Mallinckrodt contributed to the writing</p> <p>23 of that book?</p> <p>24 A. I don't recall.</p>	<p style="text-align: right;">Page 341</p> <p>1 did Mallinckrodt have a speakers bureau</p> <p>2 program?</p> <p>3 A. From generics, I don't</p> <p>4 recall any program that the generics</p> <p>5 would have.</p> <p>6 Q. I'm talking about</p> <p>7 Mallinckrodt generally.</p> <p>8 A. I don't -- I don't remember</p> <p>9 a speakers program regardless.</p> <p>10 Q. Have you ever heard of</p> <p>11 Campbell Alliance?</p> <p>12 A. It doesn't -- it doesn't</p> <p>13 sound familiar to me.</p> <p>14 Q. Are you aware of</p> <p>15 Mallinckrodt working with any outside</p> <p>16 organizations with respect to speakers</p> <p>17 bureaus or key opinion leaders?</p> <p>18 A. It's not familiar to me.</p> <p>19 Q. Are you aware of</p> <p>20 Mallinckrodt working at all with any key</p> <p>21 opinion leaders?</p> <p>22 A. It does not sound familiar</p> <p>23 to me.</p> <p>24 Q. You know what a key opinion</p>

<p style="text-align: right;">Page 342</p> <p>1 leader is though, right?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. But you just don't</p> <p>4 recall Mallinckrodt working with key</p> <p>5 opinion leaders to your knowledge?</p> <p>6 A. I don't recall any key</p> <p>7 opinion leaders, no. I don't recall</p> <p>8 Mallinckrodt working with key opinion</p> <p>9 leaders.</p> <p>10 Q. And you left in 2010, right?</p> <p>11 A. Correct.</p> <p>12 Q. That takes care of that one.</p> <p>13 A. I might be able to get to</p> <p>14 opine yet.</p> <p>15 Q. Are you familiar with</p> <p>16 monthly call plan detail?</p> <p>17 A. The term sounds familiar to</p> <p>18 me. I don't recall anything specifically</p> <p>19 on that.</p> <p>20 Q. Would you have been involved</p> <p>21 in any monthly call plan details for</p> <p>22 Exalgo?</p> <p>23 A. I don't recall being</p> <p>24 involved in Exalgo. Like I said, I know</p>	<p style="text-align: right;">Page 344</p> <p>1 can sell to any state in the union</p> <p>2 for the most part if they gain</p> <p>3 state licensing, as does a</p> <p>4 pharm -- excuse me -- as does a</p> <p>5 wholesale distributor in</p> <p>6 California can sell to virtually</p> <p>7 every -- all 50 states.</p> <p>8 So the proximity or the</p> <p>9 location of them doesn't</p> <p>10 necessarily indicate where that</p> <p>11 product is being shipped to.</p> <p>12 BY MS. BAIG:</p> <p>13 Q. Sure. But I'm asking if you</p> <p>14 were aware that you had many Florida</p> <p>15 distributors buying solely oxy 15 and oxy</p> <p>16 30?</p> <p>17 A. I'm not familiar. I'm</p> <p>18 trying to recall if that would even be</p> <p>19 the case. I'm trying to recall how many</p> <p>20 distributors there are or were in</p> <p>21 Florida. I can think of two.</p> <p>22 Q. Can you think of any actions</p> <p>23 that Mallinckrodt took to curb the abuse</p> <p>24 of oxy 15 and oxy 30 in Florida?</p>
<p style="text-align: right;">Page 343</p> <p>1 the name of the product.</p> <p>2 Q. Were you aware at the time</p> <p>3 that you were at Mallinckrodt that oxy 15</p> <p>4 and oxy 30 were among the most abused</p> <p>5 products -- most abused opioids in</p> <p>6 Florida?</p> <p>7 A. I don't recall that. I know</p> <p>8 we've gone through some documents that</p> <p>9 showed that, or at least stated that, I</p> <p>10 should say.</p> <p>11 Q. But you were aware that they</p> <p>12 were two of Mallinckrodt best selling</p> <p>13 products, correct?</p> <p>14 A. The oxycodone family was</p> <p>15 certainly, yes, one of the top selling</p> <p>16 products.</p> <p>17 Q. Were you aware that you had</p> <p>18 many Florida distributors buying solely</p> <p>19 oxy 15 and oxy 30?</p> <p>20 MR. TSAI: Object to form.</p> <p>21 Go ahead.</p> <p>22 THE WITNESS: I'll just make</p> <p>23 a clarifying statement there, that</p> <p>24 Florida -- Florida distributors</p>	<p style="text-align: right;">Page 345</p> <p>1 A. Probably a better question</p> <p>2 for compliance, as compliance had a</p> <p>3 process in place to detect suspicious</p> <p>4 orders and peculiar orders, I think is</p> <p>5 what the reference is. So that certainly</p> <p>6 was a process that compliance put in</p> <p>7 place.</p> <p>8 Q. Are you aware of any actions</p> <p>9 that Mallinckrodt took to curb the abuse</p> <p>10 of oxy 15 and oxy 30 in Florida?</p> <p>11 A. I'm not aware. And abuse is</p> <p>12 really through the -- not from the -- you</p> <p>13 know, this is -- we're selling into a</p> <p>14 distribution network. This is abuse if</p> <p>15 it's a prescription product, and the</p> <p>16 physician is writing the prescription. I</p> <p>17 don't know at what point we could</p> <p>18 intervene on that physician writing a</p> <p>19 prescription.</p> <p>20 Q. Are you -- if I ask that</p> <p>21 same question but for elsewhere in the</p> <p>22 country, is your answer the same?</p> <p>23 A. That is correct. It would</p> <p>24 be the same.</p>



<p style="text-align: right;">Page 346</p> <p>1 Q. Do you know if Mallinckrodt 2 ever had communications with the DEA in 3 efforts to try to increase DEA quotas 4 that governed the manufacture and 5 distribution of prescription opioids? 6 A. I understand that there was 7 communication on a regular basis with DEA 8 regarding quota. 9 Q. Were you involved in that 10 communication? 11 A. I was not, not that I recall 12 ever having any interaction in that. 13 Q. Do you remember hearing 14 about those types of communications with 15 the DEA? 16 A. I remember having roughly 17 \$100 million at wholesale dollars on 18 backorder, which was largely driven by 19 not having quota. And I don't know if it 20 was on the API side or the finished 21 dosage side. I don't recall. But 22 fighting and trying to manage rather the 23 back order situation was significant. 24 Q. And so did that prompt</p>	<p style="text-align: right;">Page 348</p> <p>1 expertise. 2 Q. And was it your general 3 understanding, though, that 4 Mallinckrodt's typical position would be 5 to want to increase quota? 6 MR. TSAI: Object to form. 7 Go ahead. 8 THE WITNESS: I think really 9 what it would come down to is we 10 would want to make sure that we 11 would fill the demand that was 12 generated by our customers, and 13 customers again defined as 14 wholesalers, chain headquarters. 15 And so to fill those orders, 16 certainly, is part of the 17 objective that you would want to 18 achieve. 19 BY MS. BAIG: 20 Q. And as part of that 21 objective, did Mallinckrodt request that 22 the DEA increase quotas? Do you know 23 that? 24 A. I don't know that</p>
<p style="text-align: right;">Page 347</p> <p>1 Mallinckrodt to request higher quotas 2 from the DEA? 3 A. I don't know what the 4 quota -- I don't know what the request 5 volume was made. The fact it's on 6 backorder wouldn't drive the volume. It 7 would be driven based off what the 8 forecasted volume would be as it relates 9 to purchases made by wholesalers, chains, 10 et cetera. 11 Q. My question, though, is a 12 little bit more narrow. It's -- are you 13 aware of communications with the DEA 14 regarding quota and request for increase 15 in quota levels? 16 A. I'm not aware of 17 conversations. But I know that our 18 team -- by our team, I'm saying -- I 19 believe it was Karen Harper's team, so I 20 used the collective "our" -- was working 21 with DEA to obtain quota. How -- the 22 levels, the amounts, the frequency, I 23 don't know specifics on that. That is 24 something that is their area of</p>	<p style="text-align: right;">Page 349</p> <p>1 specifically. I know they had 2 communication, so -- but I don't know 3 what those communications, how they took 4 form. I just don't recall any -- any 5 component of the communication and how 6 they communicated with the DEA. 7 Q. So we have already talked 8 about chargeback data, and we've talked 9 about IMS data, which I believe is the 10 same as IQIVIA data. 11 A. Yes. 12 Q. Correct? 13 A. Yes. 14 Q. Okay. Did Mallinckrodt 15 purchase any other -- or did Mallinckrodt 16 have access to any other data in which it 17 was tracking -- tracking its products, 18 essentially? 19 A. I don't believe there was 20 any other data. I think IMS at that time 21 was called National Sales Perspectives, I 22 believe was the audit that was available. 23 Q. Did you -- did Mallinckrodt 24 have Wolters Kluwer data?</p>

<p style="text-align: right;">Page 350</p> <p>1 A. I don't know if they  2 purchased Wolters Kluwer data. I don't  3 know what their data entails, other than  4 now they are a pricing database. But  5 they have -- that's -- that's the only  6 context I can think of Wolters Kluwer off  7 the top. I just don't recall any other  8 context.</p> <p>9 Q. So I believe you testified  10 that you were not involved in any talks  11 with the DEA regarding any Mallinckrodt  12 opioid product; is that right?</p> <p>13 A. I don't believe I was  14 involved in any discussions with DEA or  15 communication with them.</p> <p>16 Q. Okay. How about FDA?</p> <p>17 A. No. I would -- I can't  18 think of a scenario. I don't recall any  19 scenario where I would be involved at the  20 FDA level.</p> <p>21 Q. No communications with the  22 FDA about REMS, risk evaluation  23 mitigation strategies?</p> <p>24 A. So not with FDA. We had a</p>	<p style="text-align: right;">Page 352</p> <p>1 can say manufacturer advisory boards.  2 Q. Okay.  3 A. So I was on the manufacturer  4 advisory board for AmerisourceBergen.  5 Q. Any others?  6 A. Not that I recall.  7 Q. And what was your  8 responsibility on the manufacturer  9 advisory board for AmerisourceBergen?  10 A. On an annual basis, we would  11 meet with the members of the manufacturer  12 advisory board, the AmerisourceBergen  13 leadership team, which would be the folks  14 overseeing the purchasing of product,  15 would have that annual meeting and go  16 through various topics of discussion  17 regarding logistics, supply, those types  18 of topics.  19 Q. And that was the generic  20 manufacturers advisory board?  21 A. I believe that's what it's  22 called. I don't remember any brand  23 companies being a part of that.  24 Q. Were you on any other</p>
<p style="text-align: right;">Page 351</p> <p>1 risk mitigation person, I forget her  2 name, who headed up REMS. And from that  3 perspective, there would be discussions  4 with that individual. To the extent  5 there would be any involvement from FDA,  6 I don't -- I don't recall any scenario  7 where that interaction would occur.</p> <p>8 Q. Did that person report to  9 you?</p> <p>10 A. No.</p> <p>11 Q. Who would they report to?</p> <p>12 A. I have no idea. I don't  13 recall.</p> <p>14 Q. And did you work with any  15 third parties with respect to REMS?</p> <p>16 A. I don't recall personally  17 doing that. I know that, as I understand  18 it, whoever headed up REMS, again I don't  19 remember her name, interacted with --  20 with a group.</p> <p>21 Q. Were you on any -- on any  22 pharmaceutical boards while you were at  23 Mallinckrodt?</p> <p>24 A. Pharmaceutical boards. So I</p>	<p style="text-align: right;">Page 353</p> <p>1 boards?  2 A. Not that I recall.  3 Q. Were you involved with any  4 lobbying efforts on Mallinckrodt's part  5 with respect to any opioid products  6 specifically or generally?  7 A. Not that I recall.  8 Q. What department at  9 Mallinckrodt was involved in lobbying?  10 A. I am not sure.  11 Q. You don't know, you have no  12 idea?  13 A. I have no idea.  14 Q. Do you know if Mallinckrodt  15 was a member of the Pain Care Forum?  16 A. I'm not familiar with that.  17 So I don't know.  18 Q. How about the Pain Care  19 Coalition?  20 A. I'm not familiar with that.  21 I don't know.  22 Q. American Pain Society?  23 A. I'm not familiar with that,  24 other than I think it was maybe</p>

<p style="text-align: right;">Page 354</p> <p>1 referenced in another document. But I'm 2 not familiar with any affiliation. 3 Q. HDA Research Foundation? 4 A. I'm familiar with a 5 relationship with the HDA, they are the 6 Healthcare Distribution Association. So 7 that is the association affiliated with 8 wholesalers and distributors. 9 Q. And did you have interaction 10 with HDA while you were at Mallinckrodt? 11 A. I would attend their 12 meetings, but not their association 13 meetings. 14 Q. Can you clarify what you 15 mean by the distinction? 16 A. So they would hold a 17 meeting, I believe at that time it was 18 twice a year. It's now once a year. But 19 we would pay a fee to go to this meeting, 20 members of HDA, was called HDMA, HDA, so 21 members of McKesson, AmerisourceBergen, 22 HD Smith, various wholesalers and 23 distributors, there would be a meeting. 24 Each member, each company would have</p>	<p style="text-align: right;">Page 356</p> <p>1 annual and HDA business leadership. I 2 believe that's how it went. So that 3 would be twice a year. 4 Q. How about the National 5 Wholesale Druggist Association? 6 A. That is the old name of HDA. 7 Q. Okay. So same answer? 8 A. Same answer. 9 Q. National Association of 10 Chain Drug Stores? 11 A. That's what -- we talked 12 about that one earlier, yes. 13 Q. How often did you go to 14 those meetings? 15 A. That was the -- 16 Q. Oh, is that the NACDS? 17 A. Yes, that's correct. 18 Q. Alliance For Patient Access? 19 A. It's not familiar to me. 20 Q. Federation of State Medical 21 Boards? 22 A. Not familiar to me. 23 Q. U.S. Pain Foundation? 24 A. Not familiar to me.</p>
<p style="text-align: right;">Page 355</p> <p>1 specific tables set up and HDA would 2 organize a meeting time for us to go in 3 and talk with their folks. That could be 4 anywhere from the finance team to the 5 purchase -- you know, the buyers. So we 6 would have meetings with each group from 7 those various companies. 8 Q. How about the Center For 9 Healthcare Supply Chain Research? 10 A. It doesn't -- it doesn't 11 sound familiar to me. I'm not sure. 12 Q. Just going back for a 13 moment. How often would you go to HDA 14 Research Foundation meetings? 15 A. So let me clarify. HDA 16 research meetings, I don't believe I'd be 17 any part of. I would be part of the HDA 18 business leadership conference. So the 19 research was not a component that I'm 20 familiar with. 21 Q. Okay. So HDA business 22 leadership meetings you attended how 23 often when you were at Mallinckrodt? 24 A. They had two meetings, HDA</p>	<p style="text-align: right;">Page 357</p> <p>1 Q. American Geriatric Society? 2 A. Not familiar to me. 3 Q. Pharmaceutical Research and 4 Manufacturers of America? 5 A. I've heard of them, but I'm 6 not familiar with them -- or I don't 7 recall any interaction. 8 (Whereupon, a discussion was 9 held off the stenographic record.) 10 MS. BAIG: I actually have 11 no further questions. 12 THE VIDEOGRAPHER: We're 13 going off the record. The time is 14 5:03. 15 (Short break.) 16 THE VIDEOGRAPHER: We are 17 going back on record, beginning of 18 Media File Number 7. The time is 19 5:13. 20 - - - 21 EXAMINATION 22 - - - 23 BY MR. GASTEL: 24 Q. Good evening.</p>

<p style="text-align: right;">Page 358</p> <p>1 A. Good evening.</p> <p>2 Q. My name is Ben Gastel, I</p> <p>3 represent plaintiffs in the Tennessee</p> <p>4 lawsuit that have been cross-noticed into</p> <p>5 this deposition.</p> <p>6 MR. GASTEL: We'll lodge our</p> <p>7 usual objection about the lack of</p> <p>8 timely document production and the</p> <p>9 necessary limiting of time</p> <p>10 examination of the witness.</p> <p>11 Subject to that objection,</p> <p>12 I'm going to ask you a few</p> <p>13 questions.</p> <p>14 BY MR. GASTEL:</p> <p>15 Q. Mr. Adams, do you know</p> <p>16 anything about the Tennessee litigation?</p> <p>17 A. I do not.</p> <p>18 Q. In your work for</p> <p>19 Mallinckrodt, did you ever travel to the</p> <p>20 state of Tennessee?</p> <p>21 A. Not that I'm aware of.</p> <p>22 Q. Ms. Baig showed you a</p> <p>23 document earlier from a police officer</p> <p>24 from Morristown, Tennessee.</p>	<p style="text-align: right;">Page 360</p> <p>1 first, and you might have covered it this</p> <p>2 morning. I missed it and I apologize.</p> <p>3 But where do you live? What is your</p> <p>4 specific residential address?</p> <p>5 A. 21 Wellington Drive, Long</p> <p>6 Valley, New Jersey 07853.</p> <p>7 Q. And who lives there with</p> <p>8 you?</p> <p>9 A. My wife and two kids.</p> <p>10 Q. And how long have you lived</p> <p>11 there?</p> <p>12 A. Since 2010.</p> <p>13 Q. And do you have any plans to</p> <p>14 move anytime soon?</p> <p>15 A. Retirement time.</p> <p>16 Q. I won't ask you if you have</p> <p>17 plans for that.</p> <p>18 Do you have any</p> <p>19 understanding of opioid prescription</p> <p>20 rates in the state of Tennessee?</p> <p>21 A. I do not.</p> <p>22 Q. Do you have -- what is your</p> <p>23 understanding of the opioid crisis in</p> <p>24 this country? Do you have an</p>
<p style="text-align: right;">Page 359</p> <p>1 Do you recall that document?</p> <p>2 A. I do recall that document.</p> <p>3 Q. And you recall that incident</p> <p>4 involving the Morristown police</p> <p>5 investigation, correct?</p> <p>6 A. Yeah. At a top level, yes.</p> <p>7 Q. You didn't travel to</p> <p>8 Morristown, Tennessee as part of that</p> <p>9 investigation?</p> <p>10 A. No. I did not. That would</p> <p>11 be largely restricted to the compliance</p> <p>12 team --</p> <p>13 Q. Sure.</p> <p>14 A. -- and security, if you</p> <p>15 will.</p> <p>16 Q. Did you ever talk to that</p> <p>17 police officer from Morristown,</p> <p>18 Tennessee?</p> <p>19 A. No, I would not -- I don't</p> <p>20 recall any conversation. Typically I</p> <p>21 would again stay with compliance and</p> <p>22 regulatory -- excuse me -- compliance and</p> <p>23 security.</p> <p>24 Q. Sure. I should cover this</p>	<p style="text-align: right;">Page 361</p> <p>1 understanding of it?</p> <p>2 A. Yeah, I guess from the</p> <p>3 perspective, I -- I can kind of put in an</p> <p>4 overall perspective relative to more</p> <p>5 recent. It's obviously in the news all</p> <p>6 the time regarding opioid deaths and</p> <p>7 regarding opioid abuse. So that is</p> <p>8 definitely something that you read and</p> <p>9 see in the news with some regularity.</p> <p>10 Q. Do you believe this</p> <p>11 crisis -- this country is in the middle</p> <p>12 of an opioid epidemic?</p> <p>13 A. I've heard that term.</p> <p>14 Whether or not it's reached -- you know,</p> <p>15 reached epidemic proportions, I can't say</p> <p>16 for certain. I feel like potentially --</p> <p>17 I haven't had any personal experience</p> <p>18 with this -- with it at all.</p> <p>19 So from the perspective of</p> <p>20 an epidemic, I know from the press and</p> <p>21 what I see on TV, it is certainly a</p> <p>22 challenge.</p> <p>23 Q. Do you know if certain</p> <p>24 portions of the country are more affected</p>

<p style="text-align: right;">Page 362</p> <p>1 by that opioid crisis than other parts of 2 the country?</p> <p>3 A. I don't know the specifics 4 on that, no.</p> <p>5 Q. Have you ever reviewed 6 materials published by the Tennessee 7 Department of Health on Tennessee's 8 opioid crisis?</p> <p>9 A. I have not.</p> <p>10 Q. Are you aware that as of 11 2013, the Tennessee Department of Health 12 has estimated that there are 221,000 13 adults in Tennessee using prescription 14 pain relievers for nonmedical purposes?</p> <p>15 A. I -- yeah, I've been out -- 16 I've been out of the opioid component 17 since 2010. I just haven't kept up with 18 that type of statistic or information. 19 So no, I'm not familiar with that number, 20 and don't know how to quite put it in 21 context.</p> <p>22 Q. Sure. Would it surprise you 23 if the Department of Justice has found 24 that prescription opioids rank as the</p>	<p style="text-align: right;">Page 364</p> <p>1 Q. So during your time with 2 Mallinckrodt, based on that e-mail 3 exchange and your experience with the 4 Morristown police investigation, you 5 learned that Mallinckrodt drugs had been 6 illegally diverted into Tennessee from 7 Florida, right?</p> <p>8 MR. TSAI: Object to form. 9 Go ahead.</p> <p>10 THE WITNESS: I learned from 11 that document that there were 12 some -- a bottle. I'm not sure 13 beyond that what could be 14 quantified.</p> <p>15 BY MR. GASTEL: 16 Q. In your mind, is it legal 17 for a physician to write a prescription 18 for an opioid for a nonmedical reason?</p> <p>19 MR. TSAI: Objection. Calls 20 for a legal conclusion. 21 Go ahead.</p> <p>22 THE WITNESS: I don't know 23 why a physician -- I can't imagine 24 a physician like that. So I don't</p>
<p style="text-align: right;">Page 363</p> <p>1 number one abused drug among individuals 2 receiving state funded services in 3 Tennessee?</p> <p>4 A. Yeah, I -- was the question 5 would it surprise me?</p> <p>6 Q. Yes.</p> <p>7 A. Is that what the question 8 was?</p> <p>9 MR. TSAI: Objection. Lacks 10 foundation. 11 Go ahead.</p> <p>12 THE WITNESS: I don't have 13 much basis for that as far as what 14 my reaction would be. I don't 15 know how to put that into context. 16 It certainly isn't a number that I 17 would have off the top of my head.</p> <p>18 BY MR. GASTEL: 19 Q. And I don't necessarily want 20 to go back to the document. But the 21 document that Ms. Baig showed you earlier 22 regarding the Morristown police officer, 23 you recall that document, right?</p> <p>24 A. Yes, I do.</p>	<p style="text-align: right;">Page 365</p> <p>1 know why a physician would 2 prescribe in that situation.</p> <p>3 BY MR. GASTEL: 4 Q. You can't contemplate the 5 idea that a physician writes a 6 prescription for an opioid for a 7 nonmedical reason?</p> <p>8 A. The product is -- first of 9 all, I'll say, I'm not in -- and I 10 haven't been in the industry where I 11 would call on prescribers, that I would 12 talk indications, that I would go through 13 any process that would interact with the 14 physician. So from the perspective of me 15 personally, that is not an area of 16 expertise. Dosing, none of that would be 17 anything that I would have any awareness 18 of.</p> <p>19 So from a layman's 20 perspective, I cannot imagine a scenario 21 on why a legitimate pain -- FDA approved 22 pain medication would be written for 23 anything other than pain.</p> <p>24 Q. And you recall, Miss Baig</p>



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1 took you through the documents regarding  
 2 your trip down to Sunrise and your audit  
 3 of the Sunrise facility. Do you recall  
 4 that document and that testimony?  
 5 A. I do.  
 6 Q. Are you aware that less than  
 7 one year after your Sunrise audit that  
 8 found no problem with Sunrise operations  
 9 in Florida, the DEA suspended Sunrise's  
 10 license because of its sales of oxy in  
 11 the state of Florida?  
 12 A. Maybe a couple points. I  
 13 don't know when that occurred. It was  
 14 probably after my time at Mallinckrodt,  
 15 because I just don't know.  
 16 I will say that that will  
 17 likely be tied to the same time or  
 18 roughly the same window of time that DEA  
 19 inspected them and found their practices  
 20 to be satisfactory.  
 21 So at that point, again I'll  
 22 reiterate what I -- what I said in that  
 23 testimony. And that is that we were --  
 24 we being Mallinckrodt was actually

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1 complimented on how that was managed. So  
 2 what happened and transpired after I left  
 3 I can't -- I can't speculate.  
 4 Q. Sure. And you didn't have  
 5 any specific conversations with DEA that  
 6 their audit of Sunrise was -- was --  
 7 found no problems, right?  
 8 You didn't have any specific  
 9 conversations with the DEA about their  
 10 audit of Sunrise, right?  
 11 A. I don't have those -- I'm --  
 12 I'm not familiar with any conversations  
 13 I've had from DEA. What I've -- what I  
 14 saw in the e-mail that was produced, is  
 15 that it indicated a compliment to the  
 16 organization for how it was managed by  
 17 Mallinckrodt.  
 18 Q. That was Mr. Ratliff's  
 19 interpretation of a conversation that he  
 20 had with the DEA agent; is that fair?  
 21 A. I believe so, from --  
 22 Q. And you weren't a party to  
 23 that conversation, right?  
 24 A. I was not a party to that

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1 conversation. I will say that it does  
 2 still follow on the heels of the DEA of  
 3 having an audit of their facilities and  
 4 finding it to be satisfactory to the  
 5 controls that they have in place.  
 6 (Document marked for  
 7 identification as Exhibit  
 8 Mallinckrodt-Adams-27.)  
 9 BY MR. GASTEL:  
 10 Q. I'm going to hand you a  
 11 document that we'll mark as Exhibit 27.  
 12 This is actually my third document.  
 13 This is an e-mail that was  
 14 previously introduced in this litigation  
 15 during Steven Becker's deposition. You  
 16 are familiar with Mr. Becker, right?  
 17 A. I am familiar with Steve,  
 18 yes.  
 19 Q. He was one of the national  
 20 sales directors that reported to you,  
 21 correct?  
 22 A. That's correct.  
 23 Q. I want to direct -- and this  
 24 is an e-mail dated June 18, 2010, from

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1 Kate Muhlenkamp to a variety of people in  
 2 the sales department at Mallinckrodt. Do  
 3 you see that?  
 4 A. I do, and if I could just  
 5 interject. I was working at Dr. Reddy's  
 6 at this time.  
 7 Q. Sure.  
 8 A. I was no longer an employee.  
 9 Q. And you left Mallinckrodt in  
 10 June of 2010, correct?  
 11 A. I did not. I left in May of  
 12 2010.  
 13 Q. So you left approximately a  
 14 month before this e-mail was sent?  
 15 A. I started at Dr. Reddy's on  
 16 June 3rd, if I'm not mistaken. If that's  
 17 Monday, I started on that time at a  
 18 different organization, yes.  
 19 Q. Sure. Do -- all I want to  
 20 direct your attention to, the third  
 21 paragraph in this e-mail where it says,  
 22 "Additionally, it came to our attention  
 23 that Sunrise wholesaler's DEA license was  
 24 suspended pending further investigation.

<p style="text-align: right;">Page 370</p> <p>1 Although the official reason for the  2 suspension has not been named, we are  3 under the impression that it is also due  4 to the sale of oxycodone in the state of  5 Florida."  6 Did I read that correctly?  7 A. That is what it states.  8 Yeah, it sounds like you read it  9 correctly, yes.  10 Q. So if that's true, does that  11 cause you any concern that less than a  12 year after you audited Sunrise's  13 facility, that the DEA suspended  14 Sunrise's license for its sale of  15 oxycodone in the state of Florida?  16 A. I guess we can talk about  17 ifs, which -- which it is.  18 So from the perspective of,  19 I mentioned this earlier that at least in  20 conversations that I had with wholesalers  21 was, we believed we are doing everything  22 correct; however, the DEA and -- and the  23 rules keep changing, or they are not  24 providing the guidance necessary to be</p>	<p style="text-align: right;">Page 372</p> <p>1 took form. And -- and the DEA is the  2 organization that has oversight and has a  3 duty and has a responsibility for this  4 and has the most global viewpoint of such  5 a distributor. So the fact that, if they  6 were doing things inappropriately, and  7 that they were suspended, I applaud that.  8 Q. And you say that the DEA has  9 the most global view of what's going on,  10 but with regard to Mallinckrodt products,  11 Mallinckrodt knows just as much  12 information as the DEA through its  13 chargeback data, right?  14 A. It knows what is happening  15 from Mallinckrodt to the distributor to  16 the pharmacy. Beyond that it doesn't  17 have any other information.  18 So it doesn't know why that  19 product was prescribed. It doesn't know  20 why that -- if that particular  21 prescription was generated and put  22 through a pharmacy or dispensing  23 physician as it relates to its servicing  24 a patient population of oncology patients</p>
<p style="text-align: right;">Page 371</p> <p>1 able to make sure that we can be  2 adherent. So we are having a challenging  3 time, despite believing we do everything  4 correctly.  5 That's not Sunrise. But  6 that was a general theme that would come  7 out of various meetings. So I remember  8 that specifically.  9 But in reference to this,  10 and, you know, answering the if question  11 that you state, I certainly, again,  12 can -- can state our audit followed a DEA  13 audit that found them at that time to be  14 in compliance.  15 Q. So my question is, is does  16 it cause you any certain that less than a  17 year later the DEA suspends their license  18 for -- because of sales of oxy in  19 Florida, the oxy that you were selling to  20 them in Florida?  21 A. As far as a concern, what it  22 shows me, the fact that it was suspended,  23 is that the controls that are in place  24 from a compliance perspective actually</p>	<p style="text-align: right;">Page 373</p> <p>1 or a pain center. So the purview that as  2 a manufacturer extends only so far.  3 The extent that it's deeper  4 than that resides above a Mallinckrodt,  5 or a manufacturer.  6 Q. Miss Baig showed you some  7 sales figures earlier showing  8 Mallinckrodt sales of opioids increased  9 over time, including at least one  10 instance an increase in over  11 37,000 percent of oxy 30 sales. Do you  12 recall those sales figures and that  13 testimony?  14 A. I do.  15 Q. When you saw that  16 Mallinckrodt's sales figures for opioids,  17 including oxy 30, were increasing, what  18 investigation did you do to ensure that  19 those sales were being driven by  20 legitimate medical needs?  21 MR. TSAI: Object to form.  22 THE WITNESS: As far as  23 investigating, that is a  24 compliance. The compliance team</p>

<p style="text-align: right;">Page 374</p> <p>1 has the processes in place to  2 investigate those. Again, as  3 those -- certain things -- when  4 there's an order placed and it  5 seems to be out, there is a  6 suspicious order monitoring  7 process that's in place and those  8 controls are certainly designed to  9 highlight that.</p> <p>10 Now, the fact their sales  11 growth can be driven, as I  12 mentioned I believe during my  13 testimony, it can be driven on a  14 number of scenarios.</p> <p>15 One is, it could be a new  16 customer who we gained. And so  17 the comparison from the first set  18 of data to the second could be  19 going from zero to -- or from one  20 bottle to 100. Okay, great,  21 you've got a huge percent  22 increase, right.</p> <p>23 It could be that we  24 basically looked at that -- or</p>	<p style="text-align: right;">Page 376</p> <p>1 saw in the state of Florida during the  2 time period that you were the director of  3 sales for Mallinckrodt, right?</p> <p>4 A. An explosion of sales. I  5 wouldn't characterize it as that. And I  6 can't speak specifically to Florida.</p> <p>7 But as far as the  8 prescriptions generated, again  9 Mallinckrodt was not calling on  10 physicians to generate prescriptions.  11 The fact that prescriptions were being  12 written, were being written by  13 physicians. And if there was any  14 promotional activity that was being done  15 to physicians, it was not as a result of  16 Mallinckrodt. If there was anything that  17 was out there relative to having that  18 physician look at the features and  19 benefits and details of a prescription  20 product, it was not -- it was not a  21 Mallinckrodt generics -- that was not  22 within our -- within how we promoted  23 products.</p> <p>24 Q. I get that that's how -- was</p>
<p style="text-align: right;">Page 375</p> <p>1 that customer looked at us and  2 said, you know what, we want you  3 to be the primary, and we no  4 longer want to be able to -- or  5 have additional manufacturers of  6 this product within our  7 distribution network. That could  8 be their decision to do that.</p> <p>9 The other one is, when was  10 the product launched. Was the  11 product just launched? So you're  12 comparing a -- two months of sales  13 versus 12 months of sales.  14 There's many variables that can  15 happen there. Or was there a  16 supply disruption that occurred  17 from another manufacturer or a  18 discontinuation of a product.</p> <p>19 All of those factor into  20 what can drive a number.</p> <p>21 BY MR. GASTEL:</p> <p>22 Q. Sure. And one way to drive  23 that number would be if there's an  24 explosion of abuse and diversion like we</p>	<p style="text-align: right;">Page 377</p> <p>1 not within how you promoted products, but  2 that wasn't my question.</p> <p>3 My question was, one factor  4 that could also be driving a demand in  5 increased sales is an explosion of abuse  6 and diversion of prescription opioids,  7 right?</p> <p>8 A. As far as an abuse, again,  9 you saw things in the press on that. But  10 how -- how does the fact that you are  11 manufacturing and supplying, that does  12 not create the demand. And so that  13 explosion isn't something that we  14 created. And so from the perspective of  15 the way you help in that whole process is  16 to put in a process in place to identify,  17 which our compliance team, as I  18 understand, did, was to identify  19 suspicious orders, et cetera.</p> <p>20 So that's certainly the  21 responsibility that the organization took  22 seriously.</p> <p>23 Q. Do you know how many  24 suspicious orders of Sunrise or Masters</p>

<p style="text-align: right;">Page 378</p> <p>1 Pharmaceuticals that your compliance team 2 reported to the DEA in the period of 3 2008?</p> <p>4 A. I do not know.</p> <p>5 Q. Do you know how many 6 suspicious orders your compliance team 7 reported to the DEA from Sunrise or 8 Masters in 2009?</p> <p>9 A. I don't know.</p> <p>10 Q. Do you know how many orders 11 of Sunrise and Masters orders that your 12 compliance team reported to the DEA in 13 2010?</p> <p>14 A. I think that would be a 15 better question, all of these, would be 16 for the compliance team. That was a 17 separate team. So I don't -- I don't 18 know how many suspicious orders were 19 flagged for any customer.</p> <p>20 Q. You spoke with Ms. Baig 21 earlier about your compensation. Do you 22 recall that testimony?</p> <p>23 A. Yes. I don't remember 24 specific. I mean, we talked about it for</p>	<p style="text-align: right;">Page 380</p> <p>1 the developmental objectives, 2 would be another. Those would 3 certainly be part of what I would 4 do in developing their objectives.</p> <p>5 BY MR. GASTEL: 6 Q. Sure. And as part of that, 7 and as part of their compensation 8 structure, there would be a bonus if they 9 met certain sales quotas, correct?</p> <p>10 MR. TSAI: Objection. 11 Cumulative. Duplicative. 12 Non-Tennessee specific. 13 THE WITNESS: That would be 14 a component of their compensation.</p> <p>15 BY MR. GASTEL: 16 Q. Sure. And part of that is 17 to incentivize those national sales 18 directors to go make sales, right?</p> <p>19 MR. TSAI: Object to form. 20 Can I get a standing objection to 21 this?</p> <p>22 MR. GASTEL: Sure. 23 MR. TSAI: I think this 24 is -- I think this violates our</p>
<p style="text-align: right;">Page 379</p> <p>1 a while.</p> <p>2 Q. And as part of your role as 3 vice president of sales, you oversaw a 4 team of national sales directors, right?</p> <p>5 A. That's correct.</p> <p>6 Q. And as part of that, did you 7 put together their compensation packages 8 too?</p> <p>9 MR. TSAI: Objection. 10 Duplicative. Non-Tennessee 11 specific. 12 THE WITNESS: So the 13 objectives were brought down from 14 the organization on what metrics 15 could be used. And I don't 16 remember the term or even know 17 what it stands for. But SFM or 18 something like that was in the 19 documents. So there's corporate 20 objectives, and then there are 21 individual objectives. 22 And from that, certainly we 23 would look at what are the sales 24 objectives, as one. What would be</p>	<p style="text-align: right;">Page 381</p> <p>1 agreement about these questions 2 being Tennessee specific. 3 MR. GASTEL: That's all 4 right. 5 MR. TSAI: Go ahead. 6 THE WITNESS: So as far as 7 to have them make more sales, let 8 me just be clear that it wasn't us 9 going out trying to drive demand 10 for a product or not even trying. 11 It's outside of our ability 12 to drive demand for a product. 13 Our goal was to, when we got a new 14 product, legally approved by FDA, 15 when that product was launched to 16 gain distribution for that 17 product. Our goal was, if we had 18 part of the business and our 19 competitor had part of the 20 business, we wanted to be the one 21 that was the primary product for 22 that. 23 Our sales team was -- was 24 incentivize to make ours the</p>

<p style="text-align: right;">Page 382</p> <p>1 preferred product by our 2 customers, and customers defined 3 by the wholesalers and the chain 4 headquarters, not at any 5 individual pharmacy or in the 6 individual -- beyond the pharmacy. 7 We wouldn't even call on 8 pharmacies. 9 BY MR. GASTEL: 10 Q. When you say that it's to 11 incentivize them to make ours the 12 preferred product by our customers, you 13 mean it's to incentivize them to make 14 sales, right? 15 A. Preferred product is -- the 16 preferred product would be, can you -- 17 because it's a generic, it can be 18 substituted for a same dose strength 19 product. If a pharmacist places an 20 order, you want it to be the preferred 21 product, in the fact that for that 22 pharmacist placing an order for 23 hydrocodone, that it specifically is then 24 sold from the wholesaler to the pharmacy,</p>	<p style="text-align: right;">Page 384</p> <p>1 of a Mallinckrodt product. 2 Q. Sure. 3 A. And the sales, that's the 4 purchases from our customer to us. 5 Q. And so you developed that 6 program and that incentive structure to 7 drive sales of Mallinckrodt's products to 8 those customers, right? 9 A. And that sales is whether or 10 not it's an opioid or non-opioid, that is 11 the same design that you would build for 12 any pharmaceutical generic sales 13 organization. 14 Q. Sure. 15 A. It is non-opioid specific. 16 Q. Did you ever develop a 17 program to incentivize the sales force to 18 locate pill mills? 19 A. That would -- that was not 20 anything that was even thought about. 21 Compliance may have directed something 22 like that if there was any vision or 23 viewpoint to that. 24 I don't know how that would</p>
<p style="text-align: right;">Page 383</p> <p>1 our hydrocodone, as opposed to another 2 competitor's hydrocodone. 3 So it is not driving 4 anything more than as a preferred 5 product, you have a preferred position on 6 a contract. 7 So that's what's the 8 preferred component of it, a preferred 9 position on the contract. 10 Q. And getting that preferred 11 position was part of the reason why they 12 would get a sales bonus if they met 13 certain sales targets, right? 14 A. Yes. Their goal was to be 15 that preferred contract item that would 16 then say, if there are multiple 17 manufacturers of the same product, the 18 ideal scenario is that that would then be 19 sold from the wholesaler to that 20 pharmacy, that it was our product, our -- 21 we can't incentivize our sales team to 22 sell a competitor product. 23 Q. Sure. 24 A. So it is tied to the sales</p>	<p style="text-align: right;">Page 385</p> <p>1 be identified. To have a -- to have a 2 sales force of six -- six people who 3 covered the country to go and look at 4 individual pharmacies or dispensing 5 physicians, I don't think that would be 6 logistically possible. You know, a team 7 of six. 8 Q. Did you ever develop a 9 program to incentivize the sales force to 10 locate and report suspicious orders? 11 A. The sales team would not 12 be -- it's not like they receive an 13 order. An order comes in electronically. 14 And 90 percent of the times, it comes in 15 electronically through electronic -- 16 electronic data interchange. A sales rep 17 never sees an order. The other 10 18 percent of orders that come in would come 19 in either by fax or by e-mail. And that 20 would go directly to the customer service 21 team or somewhere else that would then 22 fulfill the order. 23 The salesperson never saw 24 the orders come in.</p>



<p style="text-align: right;">Page 386</p> <p>1 Q. Sure. But the salesperson, 2 if they wanted to, could go find the 3 orders that their customers were making, 4 right? 5 A. The only place that the 6 salesperson could look and see an order 7 is to do exactly what you said, and that 8 is to reach out. And what that would 9 give them is how much product did this 10 individual order -- what was on there 11 from Walgreens. That doesn't say how 12 much went out to the Walgreens 13 pharmacies. They can see how much was 14 purchased by McKesson. 15 And by the way, McKesson 16 then sells it out to -- I don't know the 17 customer base. I'll speculate and say 18 20,000 different outlets. You don't know 19 where that product from the perspective 20 of a purchase order, when it goes into 21 the wholesaler, you don't know where it's 22 going to go. You have no concept of 23 which customer, hospital, independent, 24 chain, where -- who is going to be</p>	<p style="text-align: right;">Page 388</p> <p>1 ultimately receiving those orders, right? 2 A. It's a rear -- it's a 3 rearview. It's like driving a car 4 looking through your rearview mirror. 5 Q. But it could be done? 6 A. Again, there's lag data 7 there. You wouldn't be able to draw a 8 correlation. 9 There is new technology that 10 is going into play. The U.S. is now 11 requiring track and trace. And that will 12 give individual serialized bottles of 13 prescription. So the prescription 14 itself -- excuse me. The product itself 15 will be serialized so you know where that 16 bottle goes. You don't know where the 17 bottles go when you sell a product into a 18 wholesaler or a chain distribution 19 center. You don't know where that 20 product goes, other than to a pharmacy. 21 But to trace that individual bottle, that 22 is not possible today. You can do it at 23 the lot number and expiration date, but 24 not the specific bottle.</p>
<p style="text-align: right;">Page 387</p> <p>1 purchasing that from a pharmacy 2 perspective from a wholesaler 3 distributor. 4 Q. Sure. You can then find it 5 out on the back end through the 6 chargeback data, right? 7 A. There is a lag effect of 8 roughly 30 days from the time that you 9 get a purchase order, you ship it out, 10 let's say in theory within a day. It 11 takes five days to get to the wholesaler 12 distributor. From there, the wholesaler 13 distributor stocks four to six weeks of 14 supply. From that point on the product 15 then is purchased. So from the time of 16 point of sale all the way through until 17 you actually could see what happened to 18 that bottle, if you could isolate that 19 individual bottle, then you could see it 20 may be six weeks later. 21 Q. But the point is, that the 22 sales staff could look at orders and 23 could look at chargeback data to figure 24 out where the downstream customer was</p>	<p style="text-align: right;">Page 389</p> <p>1 Q. Were you ever on the 2 suspicious order monitoring steering 3 committee? 4 A. I didn't recall it. But I 5 see from the documents here that I was 6 included in a team. 7 Q. And you don't recall 8 anything specifically about your work on 9 the team? 10 A. I don't. 11 MR. GASTEL: Mr. Adams, I 12 appreciate the time. Subject to 13 my earlier objection, we'll 14 reserve any other questions. 15 MR. TSAI: I have just about 16 two minutes. Just three or four 17 cleanup questions. 18 THE WITNESS: Okay. So 19 where should I face? 20 MR. TSAI: Keep facing. 21 - - - 22 EXAMINATION 23 - - - 24 BY MR. TSAI:</p>

<p style="text-align: right;">Page 390</p> <p>1 Q. So earlier today we talked a 2 bit about text messages during your time 3 at Mallinckrodt. Do you recall that? 4 A. I do. 5 Q. So just to be clear, do you 6 have or have access to any actual text 7 messages from your time at Mallinckrodt? 8 A. I do not. 9 Q. And do you have or have 10 access to the old phone that you used 11 while you were employed at Mallinckrodt? 12 A. I do not. 13 Q. Do you know for sure whether 14 or not Mallinckrodt has or has access to 15 that phone? 16 A. I do not. 17 Q. And if we could go back 18 to -- I think it was Exhibit 25. This is 19 the one where you were saying that you 20 wanted to opine on your interpretation of 21 the -- of the checklist that we went 22 through. And I don't think you got that 23 opportunity. 24 A. Yeah.</p>	<p style="text-align: right;">Page 392</p> <p>1 laws." So if Sunrise has that question 2 in their questionnaire, the fact that 3 every one of these is a yes is actually a 4 positive. It seems at the outset that 5 initially the questions that I -- I was 6 concerned that I was receiving indicated 7 yes was a bad thing, that does the 8 subject company fill prescriptions issued 9 by practitioners based solely on an 10 online questionnaire without a medical 11 examination or bona fide doctor-patient 12 relationship? 13 The answer is checked yes. 14 That means that Sunrise asks that on 15 their questionnaire to the people that 16 they are vetting, which means that that 17 is a good thing. They have that as part 18 of their vetting of their customers. 19 So their compliance to each 20 one of these as a yes appears to be a 21 positive response and as part of the 22 analysis that -- that Karen did in 23 auditing. 24 MR. TSAI: I have no further</p>
<p style="text-align: right;">Page 391</p> <p>1 Q. So you've got that in front 2 of you. If you can turn to Section 3. 3 A. Yes. 4 Q. So it's a checklist that it 5 appears Karen Harper went through during 6 the audit of Sunrise in August of 2009. 7 And the various line items are checked 8 yes. 9 What is your interpretation 10 or reading of this checklist? 11 A. So this is a questionnaire 12 that, as I understand it, that the 13 compliance team developed. Karen in 14 particular then delivered this and went 15 through this with the customer. 16 And the question is, from 17 Karen, she will ask Sunrise, "Does your 18 questionnaire include a question that 19 asked if the physician complies with laws 20 of every state in which controlled 21 substances are sold or shipped?" 22 So Sunrise, if in fact it's 23 true, says, "Yes, we have a question that 24 asks if a physician complies with the</p>	<p style="text-align: right;">Page 393</p> <p>1 questions. 2 MS. BAIG: I have one 3 follow-up question, or a couple 4 follow-up questions. 5 - - - 6 EXAMINATION 7 - - - 8 BY MS. BAIG: 9 Q. Where does it say on this 10 form that these -- that these questions 11 are questions that Sunrise was to ask? 12 A. So, "A distributor seeking 13 to determine whether a suspicious order 14 is indicative of controlled substance 15 diversion to other than legitimate 16 medical channels may wish to inquire of 17 the ordering pharmacy about the 18 following." 19 So the distributor may want 20 to ask these questions of the ordering 21 pharmacy in order -- so that's -- 22 Q. Does it say that? 23 A. Yeah. 24 Q. The distributor may want to</p>

<p style="text-align: right;">Page 394</p> <p>1 ask these questions?</p> <p>2 A. "The distributor seeking to</p> <p>3 determine whether a suspicious order is</p> <p>4 indicative of controlled substance</p> <p>5 diversion to other than legitimate</p> <p>6 medical channels may wish to inquire of</p> <p>7 the ordering pharmacy about the</p> <p>8 following."</p> <p>9 And the fact that they may</p> <p>10 wish to inquire, what this does is Karen</p> <p>11 asked them, "Do you inquire that the</p> <p>12 physician complies with the laws of every</p> <p>13 state in which controlled substances are</p> <p>14 sold or shipped?</p> <p>15 "Yes."</p> <p>16 So the "may wish" is how</p> <p>17 this is defined per DEA.</p> <p>18 The fact that Karen asked</p> <p>19 these questions, not just may but do you,</p> <p>20 and the answer is affirmative. That</p> <p>21 shows that Sunrise was doing their due</p> <p>22 diligence when vetting pharmacies.</p> <p>23 Q. So Karen asked Sunrise if</p> <p>24 Sunrise was asking each one of its</p>	<p style="text-align: right;">Page 396</p> <p>1 are suggesting that Sunrise was asking</p> <p>2 these questions, right?</p> <p>3 A. Yes. Yes.</p> <p>4 Q. Do you know whether Karen</p> <p>5 did any follow-up to determine whether</p> <p>6 the responses that Sunrise received --</p> <p>7 well, whether, one, Sunrise actually</p> <p>8 asked those questions to all its</p> <p>9 customers, and two, whether the responses</p> <p>10 received were adequate?</p> <p>11 A. So I guess the extent that I</p> <p>12 have vision to is yes, the question was</p> <p>13 asked and answered. And if these similar</p> <p>14 questions prove that this is a past</p> <p>15 audit, it doesn't -- basically you can</p> <p>16 say this isn't the only audit that</p> <p>17 Sunrise has passed in this time frame.</p> <p>18 DEA also had an audit and found it to</p> <p>19 be -- that they passed. So that's my</p> <p>20 only point.</p> <p>21 Q. Well, sure. But -- so</p> <p>22 according to your interpretation of this</p> <p>23 document, basically Sunrise would have</p> <p>24 asked for example, Mr. Barry Schultz all</p>
<p style="text-align: right;">Page 395</p> <p>1 customers the following questions, and</p> <p>2 Sunrise responded yes?</p> <p>3 A. Yes. And I --</p> <p>4 Q. And Karen took their word</p> <p>5 for it?</p> <p>6 A. I don't know if she -- if</p> <p>7 they gave a hardcopy of what it is they</p> <p>8 asked. Or if they went through and</p> <p>9 identified that. So...</p> <p>10 Q. And you don't know whether</p> <p>11 Karen actually went and did any</p> <p>12 additional follow-up with respect to</p> <p>13 whether or not Sunrise's responses</p> <p>14 received from customers were adequate.</p> <p>15 Do you know the answer to that?</p> <p>16 A. Say -- say it one -- which</p> <p>17 one? I'm sorry.</p> <p>18 Q. Do you know whether Karen</p> <p>19 did any additional follow-up to determine</p> <p>20 whether the responses received by Sunrise</p> <p>21 were adequate?</p> <p>22 A. The responses received by</p> <p>23 Sunrise to the questions --</p> <p>24 Q. Well, you're -- yeah. You</p>	<p style="text-align: right;">Page 397</p> <p>1 of these questions. And Karen is just</p> <p>2 responding here that yes, they asked the</p> <p>3 question?</p> <p>4 A. That's correct.</p> <p>5 Q. And there's no information</p> <p>6 here as to what for example,</p> <p>7 Mr. Schultz's response might have been,</p> <p>8 correct?</p> <p>9 A. No, but I can't say for</p> <p>10 certain that they have that form sitting</p> <p>11 in there in a file.</p> <p>12 Q. You don't know one way or</p> <p>13 another?</p> <p>14 A. I don't know one way or the</p> <p>15 other. I just know what's being asked</p> <p>16 and answered in this particular scenario.</p> <p>17 So again it sounded like it</p> <p>18 was a negative by having a yes answer.</p> <p>19 It shows actually that a yes answer is</p> <p>20 great. This is on your questionnaire,</p> <p>21 this is what -- what you were asking of</p> <p>22 your customers.</p> <p>23 Q. A yes answer is great from</p> <p>24 Sunrise, who was then eventually shut</p>

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1 down, correct?

2 A. It is a great component from

3 a compliance perspective. It has nothing

4 to do with the fact that they were closed

5 or suspended a year later.

6 It has everything to do with

7 these are part of the processes that when

8 it's a yes, these questions were part of

9 the vetting process that were stated to

10 be occurring.

11 Q. Karen Harper asked --

12 according to you, Karen Harper asked

13 Sunrise if they asked these questions and

14 Sunrise responded yes. And in the end,

15 Karen Harper ultimately concluded that

16 there were no problems at Sunrise and

17 that the -- what was it? That Sunrise

18 has systems in place to maintain a

19 suspicious order monitoring program that

20 meets the guidelines, correct?

21 A. And ultimately, as part of

22 an audit, the due diligence was there to

23 ask and -- and have the questions

24 answered. And whether or not there was a

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1 paper copy of validation, I can't state.

2 I don't know.

3 Q. And you can't remember any

4 of the work that you individually did

5 with respect to the suspicious order

6 monitoring systems, correct?

7 A. That's correct.

8 Q. And you don't remember

9 actually doing any follow-up with respect

10 to this audit of Sunrise, correct?

11 A. That's correct.

12 Q. Even though you were on the

13 suspicious order monitoring committee,

14 correct?

15 A. Again, if there were

16 questions where the suspicious order

17 monitoring team had about a specific

18 customer, then that question may be --

19 may be asked of me, but I can't --

20 Q. And you don't know whether

21 or not any additional -- apart from this

22 checklist form, was there any additional

23 information or backup file with respect

24 to Mallinckrodt's audit of Sunrise?

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1 A. This would be a good

2 question for compliance --

3 Q. You don't know the answer?

4 A. -- as this is their area of

5 expertise.

6 MS. BAIG: Okay. I have no

7 further questions on that.

8 THE VIDEOGRAPHER: This

9 concludes today's deposition.

10 We're going to go off record. The

11 time is 5:50.

12 (Excused.)

13 (Deposition concluded at

14 approximately 5:50 p.m.)

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1

2 CERTIFICATE

3

4

5 I HEREBY CERTIFY that the

6 witness was duly sworn by me and that the

7 deposition is a true record of the

8 testimony given by the witness.

9

10 It was requested before

11 completion of the deposition that the

12 witness, JOHN ADAMS, have the

13 opportunity to read and sign the

14 deposition transcript.

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MICHELLE L. GRAY,  
A Registered Professional  
Reporter, Certified Shorthand  
Reporter, Certified Realtime  
Reporter and Notary Public  
Dated: February 4, 2019

(The foregoing certification  
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**INSTRUCTIONS TO WITNESS**

Please read your deposition over carefully and make any necessary corrections. You should state the reason in the appropriate space on the errata sheet for any corrections that are made.

After doing so, please sign the errata sheet and date it.

You are signing same subject to the changes you have noted on the errata sheet, which will be attached to your deposition.

It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be accurate and may be used in court.

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**E R R A T A**  
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**ACKNOWLEDGMENT OF DEPONENT**

I, \_\_\_\_\_, do hereby certify that I have read the foregoing pages, 1 - 405, and that the same is a correct transcription of the answers given by me to the questions therein propounded, except for the corrections or changes in form or substance, if any, noted in the attached Errata Sheet.

\_\_\_\_\_  
JOHN ADAMS                      DATE

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

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**LAWYER'S NOTES**

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